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Wednesday
September 4, 1985

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 360]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 360 establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period September 6–12, 1985. The regulation is needed to provide for orderly marketing of fresh Valencia oranges for the period specified due to the marketing situation confronting the orange industry.

DATE: Regulation 360 (§ 908.660) is effective for the period September 6–12, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The regulation is issued under Marketing Order No. 908, as amended (7 CFR Part 908), regarding the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administative Commiftee (VOAC) and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The regulation is consistent with the marketing policy for 1984–85. The committee met publicly on August 27, 1985, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges for the specified week. The committee reports that demand for Valencia oranges continues to be slow.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because there is insufficient time between the date when information upon which the regulation is based became available and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. To effectuate the declared policy of the act, it is necessary to make the regulatory provisions effective as specified, and handlers have been notified of the regulation and its effective date.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

1. The authority citation for 7 CFR Part 908 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 908.660 is added to read as follows:

§ 908.660 Valencia Orange Regulation 360.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period September 6, 1985, through September 12, 1985, are established as follows:

(a) *District 1:* 278,000 cartons;

(b) *District 2:* 472,000 cartons;

(c) *District 3:* Unlimited cartons.

Dated: August 29, 1985.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–21059 Filed 9–3–85; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 981

Handling of Almonds Grown in California; Salable, Reserve, and Export Percentages for the 1985–86 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes salable, reserve, and export percentages of 80 percent, 20 percent, and 0 percent, respectively, for marketable California almonds delivered to handlers during the 1985–86 crop year, which began July 1, 1985. This action is taken under the marketing order for almonds grown in California and is designed to promote orderly marketing conditions in view of a projected record large almond supply for the 1985–86 crop year.

EFFECTIVE DATES: July 1, 1985 through June 30, 1986.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The marketing order for California almonds requires that the salable, reserve, and export percentages established for a particular crop year apply to all marketable almonds received by handlers from the beginning of that year.

The 1985–86 crop year began July 1, 1985, and handlers are now receiving new crop almonds.

Notice of this action was published in the August 8, 1985, issue of the **Federal Register** (50 FR 32083) and interested persons were afforded an opportunity to submit written comments. Two comments were received in favor of the proposal.

The authority to establish salable, reserve and export percentages is contained in §§ 981.47 and 981.49 of the marketing agreement and Order No. 981, both as amended (7 CFR 981), regulating the handling of almonds grown in California and hereinafter referred to collectively as the "Order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The percentages are based on a unanimous recommendation of the Almond Board of California, hereinafter referred to as the "Board," which works with USDA in administering the order.

Pursuant to §§ 981.47 and 981.49 of the order, the Board based its recommendation for salable, reserve, and export percentages of 80 percent, 20 percent, and 0 percent, respectively, on estimates of marketable supply and combined domestic and export trade demand for the 1985–86 crop year. The Board's 1985 marketable production estimate of 470 million kernel weight pounds in based on its 1985 crop estimate of 495 million pounds, minus an estimated weight loss of 25 million pounds resulting from the removal of inedible kernels by handlers and losses during manufacturing.

Trade demand is estimated at 400 million pounds—150 million pounds for domestic needs and 250 million pounds for export needs. An inventory adjustment is made to account for supplies of almonds carried in from the 1984–85 marketing year and for supplies deemed desirable to be carried out on June 30, 1986, for early season shipment during the 1986–87 crop year until the 1986 crop is available for market. After adjusting for inventory, the trade demand is calculated at 376 million pounds, the quantity of almonds from the estimated 1985 marketable production necessary for trade demand needs. The salable percentage of 80 percent will meet those needs.

The remaining 20 percent (94 million pounds) of the 1985 crop marketable production must be withheld by handlers to meet their reserve obligations. Authorized outlets for reserve almonds include new uses and markets for almonds such as almond butter, the school lunch program, an almond paste made from unblanched almonds, sales of almond snack packs to airlines and hotels at reduced prices with the agreement that these organizations would give away the snack packs to their customers on a complimentary basis, an various fund raising promotions. Such market development is necessary in view of the current supply situation and anticipated large crops in future years. Reserve almonds also could be disposed of in other noncompetitive outlets as specified in § 981.66(c) of the order or as approved by the Board.

All or part of these almonds could be released to salable if it is found that the salable supply made available by the 80 percent salable percentage is insufficient to satisfy 1985–86 trade demand including desirable carryover requirements for use during the 1986–87 crop year.

The order permits the Board to include normal export requirements with domestic requirements in its estimate of trade demand when recommending the establishment of salable, reserve, and export percentages for any crop year. For the 1985–86 crop year, estimated exports are included in trade demand, thereby making export a salable outlet rather than a reserve outlet. Because of this action, no portion of the reserve will be eligible for export to normal export outlets. Thus, an export percentage of 0 is established.

A tabulation of the estimates and calculations used by the Board in arriving at its recommendation is as follows:

MARKETING POLICY ESTIMATES—1985 CROP

[Kernal Weight Basis]

	Million pounds	Percent
Estimated Production		
1. 1985 Production	495.0	
2. Loss and Exempt—5.05%	25.0	
3. Marketable Production	470.0	
Estimated Trade Demand		
4. Domestic	150.0	
5. Export	250.0	
6. Total	400.0	
Inventory Adjustment		
7. Carryin 7/1/85	228.0	
8. Desirable Carryover 6/30/86	204.0	
9. Adjustment	(24.0)	
Salable/Reserve		
10. Adjusted Trade Demand (6 plus 9)	376.0	
11. Reserve (3 minus 10)	94.0	
12. Salable % (10÷3 x 100)		80
13. Reserve % (100% minus 12)		20

The objective of the order's volume regulation provisions is to establish and maintain orderly marketing conditions for all California almonds. This action will help to stabilize supplies and prices as the industry faces its second largest crop in history on the heels of last year's record large crop of 587 million pounds. This year's total marketable supply (1985 crop marketable production plus salable carryin from the 1984 crop is projected at a record 698 million pounds—6.6 percent above last year's previous record of 654.5 million pounds. World production also is expected to set a record, and sales of California almonds in export are expected to be difficult due to unfavorable exchange rates and large projected crops in Spain and Italy. Thus, California faces strong competition for export markets.

This action will provide an estimated 604 million pounds of California almonds for unrestricted sales (1985 crop salable production plus carryin from the 1984 crop) to meet increasing domestic and world almond consumption. This amount exceeds the actual 1984–85 record for delivered sales of California almonds by 52 percent.

Therefore, after consideration of all relevant matter presented, including that in the notice, the Board's recommendation, comments received, and other available information, it is further found that the establishment of salable, reserve, and export percentages, as hereinafter set forth, will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, Almonds, and California.

1. The authority citation for 7 CFR Part 981 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 981.234 is added to Subpart—Salable, Reserve, and Export Percentages to read as follows: (This subpart and section will not appear in the Code of Federal Regulations).

PART 981—ALMONDS GROWN IN CALIFORNIA

Subpart—Salable, Reserve, and Export Percentages

§ 981.234 Salable, reserve, and export percentages for almonds during the crop year beginning July 1, 1985.

The salable, reserve, and export percentages during the crop year beginning July 1, 1985, shall be 80 percent, 20 percent, and 0 percent, respectively.

Dated: August 29, 1985.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 85-21060 Filed 9-3-85; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 989

Raisins Produced From Grapes Grown in California; Establishment of Incoming Weight Dockage and Weight Adjustment Systems for Certain Seedless Raisins, and Addition of Marketing Order Grade Standards for Cluster Seedless Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes: (1) A weight dockage system for certain seedless raisins which do not meet incoming marketing order maturity requirements to mitigate the impact of the tighter requirements that took effect August 1, 1985; (2) a weight adjustment system, based on moisture content, for certain seedless raisins to foster the delivery of drier raisins; and (3) incoming and outgoing marketing order grade standards for Cluster Seedless raisins to increase consumer confidence in this relatively new product. This action was recommended by the Raisin Administrative Committee (Committee), which works with the USDA in administering the order.

EFFECTIVE DATE: Effective with the 1985-86 crop year which began August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447-5053.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This action amends Subpart-Supplementary Regulations (7 CFR 989.210-989.221) by revising § 989.210 and by adding §§ 989.211, 989.212, and 989.213 to establish (1) a weight dockage system for Grade B or better maturity,[1] and (2) a weight adjustment system for moisture for certain seedless raisins delivered by producers to packers. It also amends Subpart—Quality Control (7 CFR 989.701-989.702) by revising §§ 989.701 and 989.702 to establish incoming and outgoing marketing order quality standards for Cluster Seedless raisins. These subparts are operative pursuant to the marketing agreement and Order No. 989, both as amended, regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order, hereinafter referred to collectively as the "order", are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). Authority for the following action is contained in §§ 989.58 and 989.59 of the order.

The proposal was published in the **Federal Register** on July 24, 1985 (50 FR 30200), and interested persons were invited to submit written comments until August 7, 1985. Two comments were received.

One comment pointed out that Golden Seedless raisins were inadvertently omitted from § 989.212 in the proposal. This change has been incorporated in this action. The other comment favored the proposal.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the 1985 crop year has already begun. In addition, raisin producers will soon be delivering raisins to packers and these changes should be in effect when producers deliver their raisins. Furthermore, beginning August 1, 1985, raisin lots of those varietal types delivered by producers to packers must meet tighter minimum grade standards.

Last year changes were made in the incoming grade standards for raisins delivered by producers to packers contained in § 989.701 and the grade standards for packed raisins contained in § 989.702 to make the California raisin industry more quality competitive with foreign producers, and to increase user acceptance of California raisins (49 FR 33992). One of those changes, starting November 15, 1985, requires packed Natural (sun-dried) Seedless, Dipped Seedless, Oleate and Related Seedless, Golden Seedless, and Monukka raisins to contain at least 70 percent Grade B or better maturity raisins. Beginning August 1, 1985, raisin lots of those varietal types delivered by producers to packers must contain a minimum of 50 percent Grade B or better maturity raisins. Raisin lots containing less than 50 percent Grade B or better maturity raisins are off-grade and can not be acquired by raisin packers except for reconditioning or disposition as off-grade raisins.

To alleviate the impact on producers as much as possible in delivering raisins to packers, the Committee recommended a weight dockage system for Grade B or better maturity for those raisins delivered failing to meet the new incoming marketing order standard. Raisin packers may acquire lots of those varietal types of raisins with 40 to 49.9 percent Grade B or better maturity without reconditioning, but the net weight of the deliveries are to be docked 2 percentage points in weight for each one percentage point the Grade B or better maturity content is less than 50 percent. The weight reduction of the lot approximates the weight of the raisins needed to be removed from the lot by the packer during normal processing for the balance of the lot to meet the new 70 percent Grade B or better maturity taking effect on November 15, 1985. Deliveries determined to have less than 40 percent Grade B or better maturity would be off-grade and thus would have to be disposed of by the packer as off-grade, reconditioned, or returned to the producer. If there raisins were acquired under a dockage system, packers would experience higher than normal yield losses, and greater processing costs in obtaining a product that would meet the 70 percent Grade B or better maturity for packed raisins. No changes were proposed in the incoming marketing order standards for substandard raisins[2] of those varietal types.

The amount of dockage under the dockage system for Grade B or better maturity and the system currently in effect for substandard raisins will operate concurrently. Dockage for both categories will be calculated and the highest dockage would be applied to the net weight of the producers deliveries.

The weight adjustment system for moisture is intended to encourage raisin producers to deliver drier Natural (sun-dried) Seedless and Monukka raisins to packers (i.e., in the 10 to 14 percent moisture range). The industry has found that higher maturity raisins of these

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[1] For the purposes of this document Grade B or better maturity raisins are raisins which are well-matured or reasonably well-matured as defined in the U.S. Standards for Grades of Processed Raisins (7 CFR 52.1841-52.1858).

[2] For the purpose of this document, substandard raisins are raisins which are less than fairly well-matured as defined in the United States Standards for Grades of Processed Raisins (7 CFR 52.1841-52.1858).

varietal types with a moisture level in excess of 14 percent tend to sugar if held in storage for extended periods of time. Sugaring is an undesirable condition in raisins because the raisins feel gritty, rather than soft and pliable, when eaten. Increasing the storage life of raisins is important to the industry.

Under this system, growers delivering lots of raisins containing 14.1 through 16.0 percent moisture will be docked 2 pounds of raisins per ton for each 1/10 percent moisture in excess of 14 percent. Growers delivering raisins with 12.0 through 13.9 percent moisture, will receive a weight credit of 2 pounds of raisins per ton for each 1/10 percent moisture under 14.0 percent. Raisins with a moisture percentage of 10.0 through 11.9 percent will receive a weight credit of 40 pounds per ton. The weight of raisins containing less than 10 percent moisture will not be docked or adjusted because such raisins are difficult to hydrate, damage in processing, and result in increased packer processing costs. There will be no dockage or adjustment on raisins containing 14 percent moisture.

The moisture adjustment calculations will be made when applicable prior to the application of substandard or Grade B or better maturity dockage.

Last year, the Committee exempted 10 tons of Cluster Seedless raisins from all order requirements pursuant to § 989.60 of the order. Cluster Seedless raisins are sun-dried Thompson Seedless grapes which are marketed unstemmed and left in bunches. About 3 to 4 tons were marketed under this exemption. Experiments were conducted to determine the grade and condition standards which could be applied to Cluster Seedless raisins. As a result of marketing experience gained last year, and experimentation on quality requirements, 100 tons were approved for exemption from volume controls for the 1985 season. However, the Committee recommended that incoming and outgoing marketing order standards for Cluster Seedless raisins should be established under the order to assure consumers of a quality product and help expand markets for this new product. Also, this will allow the industry another year's experience before recommending standards to the Department to be established in the United States Standards for Processed Raisins.

List of Subjects in 7 CFR Part 989

Marketing agreements and orders, Grapes, Raisins, California.

PART 989—[AMENDED]

1. The authority citation for 7 CFR Part 989 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 989.210 of Subpart—Supplementary Regulations (7 CFR 989.210–989.221) is revised to read as follows:

§ 989.210 Handling of varietal types of raisins acquired pursuant to a weight dockage and/or weight adjustment (moisture) system.

(a) *General.* A handler may acquire as standard raisins lots of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, Sultana, Zante Currant and Muscat (including other raisins with seeds) raisins under the weight dockage and/or weight adjustment (moisture) provisions described in §§ 989.211, 989.212, and 989.213. The creditable weight of each lot of raisins acquired in this manner shall be that obtained by multiplying the net weight of the raisins in the lot by the applicable factor(s) from the appropriate dockage and/or weight adjustment (moisture) table(s) included in those sections.

(b) *Free and reserve tonnage percentages.* Whenever free and reserve percentages are designated for raisins of the varietal types specified in paragraph (a) of this section for a crop year, such percentages shall be applicable to the creditable weight of any lot of such raisins acquired by a handler pursuant to a weight dockage and/or weight adjustment (moisture) system.

(c) *Reserve tonnage.* A handler may hold as reserve tonnage raisins, any lot, or portion thereof, of raisins of the varietal types specified in paragraph (a) of this section acquired pursuant to a weight dockage and/or weight adjustment (moisture) system: *Provided,* That only the creditable weight of such lot, or portion thereof, may be applied by the Committee against the handler's reserve tonnage obligation.

(d) *Assessments.* Assessments on any lot of raisins of the varietal types specified in paragraph (a) of this section acquired by a handler pursuant to a weight dockage and/or weight adjustment (moisture) system shall be applicable to the free tonnage portion of the creditable weight of such lot.

(e) *Payments for services on reserve tonnage.* Payment to a handler for services performed by him with respect to reserve tonnage raisins of the varietal types specified in paragraph (a) of this section acquired pursuant to a weight dockage and/or weight adjustment (moisture) system shall be made on the basis of the creditable weight of such lot and at the applicable rate specified for such services in § 989.401 of Subpart—Schedule of Payments.

(f) *Identification.* Any lot of raisins of the varietal types specified in paragraph (a) of this section acquired pursuant to a weight dockage and/or weight adjustment (moisture) system shall be so identified by the inspection service affixing to one container on each pallet, or to each bin, in such lot, a prenumbered RAC control card (to be furnished by the Committee) which shall remain affixed to the container or bin until the raisins are processed or disposed of as natural condition raisins. The control card shall only be removed by, or under the supervision of an inspector of, the inspection service, or authorized Committee personnel.

(g) *Application of dockage and/or weight adjustment (moisture) factor(s).* The weight adjustment factor for moisture shall be applied to the net weight of raisins acquired, prior to application of the dockage factor for substandard or maturity. A lot of raisins acquired which may be subject to both a substandard and maturity dockage factor shall have only the highest of the two dockage factors applied to determine the creditable weight.

3. A new § 989.211 is added to Subpart—Supplementary Regulations (7 CFR 989.210–989.221) to read as follows:

§ 989.211 Weight adjustment (moisture) system.

(a) *General.* Natural (sun-dried) Seedless, and Monukka raisins containing from 14.1 percent through 16.0 percent moisture or from 10.0 percent through 13.9 percent moisture may be acquired by a handler under a weight adjustment system. The creditable weight of each lot of raisins acquired under this adjustment system shall be obtained by multiplying the net weight of the raisins in the lot by the applicable factor prescribed in paragraph (b) or (c) of this section.

(b) *Adjustment table for Natural (sun-dried) Seedless and Monukka raisins with 14.1 percent through 16.0 percent moisture:*

Percent moisture	Adjustment factor
16.0	.980
15.9	.981
15.8	.982
15.7	.983
15.6	.984
15.5	.985
15.4	.986
15.3	.987
15.2	.988
15.1	.989

Percent moisture	Adjustment factor
15.0	.990
14.9	.991
14.8	.992
14.7	.993
14.6	.994
14.5	.995
14.4	.996
14.3	.997
14.2	.998
14.1	.999
14.0	1.000

Note.—No adjustment for deliveries at 14 percent and in excess of 16 percent.

(c) *Adjustment table for Natural (sun-dried) Seedless and Monukka raisins with 10.0 percent through 13.9 percent moisture:*

Percent moisture	Adjustment factor
14.0	1.000
13.9	1.001
13.8	1.002
13.7	1.003
13.6	1.004
13.5	1.005
13.4	1.006
13.3	1.007
13.2	1.008
13.1	1.009
13.0	1.010
12.9	1.011
12.8	1.012
12.7	1.013
12.6	1.014
12.5	1.015
12.4	1.016
12.3	1.017
12.2	1.018
12.1	1.019
12.0-10.0	1.020

Note.—No adjustment for deliveries at 14 percent and below 10 percent.

4. A new § 989.212 is added to Subpart—Supplementary Regulations (7 CFR 989.210–989.221) to read as follows:

§ 989.212 Substandard dockage.

(a) *General.* Subject to prior agreement between handler and tenderer, Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless and Monukka raisins containing from 5.1 through 10.0 percent, by weight, of substandard raisins may be acquired by a handler under a weight dockage system. A handler also may, subject to prior agreement, acquire as standard raisins any lot of Muscat (including other raisins with seeds), Sultana, and Zante Currant raisins containing more than 12 percent, by weight, of substandard raisins under a dockage system. The creditable weight of each lot of raisins acquired under the substandard dockage system shall be obtained by multiplying the applicable net weight or creditable weight (weight determined by applying the applicable weight adjustment factor for moisture), of the lot of raisins by the applicable dockage factor from the appropriate dockage table prescribed in paragraph (b) or (c) of this section.

(b) *Substandard dockage table applicable to Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, and Monukka raisins.*

Percent substandard	Dockage factor
5.0 or less	(1)
5.1	.999
5.2	.998
5.3	.997
5.4	.996
5.5	.995

[1] No dockage.

Note.—Percentage in excess of the last percentage shown in the table shall be expressed in the same increments as the foregoing, and the dockage factor for each such increment shall be .001 less than the dockage for the preceding increment. No dockage for deliveries in excess of 10 percent substandard.

(c) *Substandard dockage table applicable to Muscat (including other raisins with seeds), Sultana, and Zante Currant raisins.*

Percent substandard	Dockage factor
12.0 or less	(1)
12.1	.999
12.2	.998
12.3	.997
12.4	.996
12.5	.995

[1] No dockage.

Note.—Percentage in excess of the last percentage shown in the table shall be expressed in the same increments as the foregoing, and the dockage factor for each such increment shall be .001 less than the dockage factor for the preceding increment.

5. A new § 989.213 is added to Subpart—Supplementary Regulations (7 CFR 989.210–989.221) to read as follows:

§ 989.213 Maturity dockage.

(a) *General.* Subject to prior agreement between handler and tenderer, Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, and Monukka raisins containing from 40.0 through 49.9 percent, by weight, of well-matured or reasonably well-matured raisins may be acquired by a handler under a weight dockage system. The creditable weight of each lot of raisins acquired under the maturity dockage system shall be obtained by multiplying the applicable net weight or creditable weight (weight determined by applying the applicable weight adjustment factor for moisture) of the lot of raisins by the applicable dockage factor from the dockage table prescribed in paragraph (b) of this section.

(b) *Maturity dockage table applicable to Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, and Monukka raisins.*

Percent well-matured or reasonably well-matured	Dockage factor
50.0 or more	(1)
49.9	.998
49.8	.996
49.7	.994
49.6	.992
49.5	.990
49.4	.988
49.3	.986
49.2	.984
49.1	.982
49.0	.980

[1] No dockage.

Note.—Percentages less than the last percentage shown in the table shall be expressed in the same increments as the foregoing, and the dockage factor for each such increment shall be .002 less than the dockage factor for the preceding increment. No dockage shall apply to lots of raisins containing 39.9 percent or less well-matured or reasonably well-matured raisins.

6. The introductory text and paragraph (a) of § 989.701 of Subpart—Quality Control (7 CFR 989.701–989.702) are revised to read as follows:

§ 989.701 Minimum grade and condition standards for natural condition raisins.

Effective pursuant to § 989.58, raisins meeting the varietal standards hereinafter set forth shall be considered as standard raisins and those failing to meet such standards shall be considered as off-grade raisins. Where the raisins in any lot consist of two or more varietal types commingled within their containers, the lot shall be considered as a mixed lot and as standard raisins if they meet for each defect the most restrictive requirements for the varietal types of raisins comprising the lot. In the event layered Muscats (including other raisins with seeds) or Cluster Seedless raisins are commingled within their containers with loose Muscats (including other raisins with seeds) or loose Cluster Seedless raisins respectively, the entire lot shall be considered as loose Muscats (including other raisins with seeds) or Natural (sun-dried) Seedless raisins. The raisins shall be considered as standard raisins if the lot as a whole meets the minimum standards for loose Muscats (including other raisins with seeds) or Natural (sun-dried) Seedless raisins: *Provided,* That with respect to the requirements peculiar to a varietal type such as possessing characteristic color, flavor, or odor, the raisins shall be considered as meeting such requirements if they

have been properly prepared as raisins. In each category, only those raisins which have been properly dried and cured in original natural condition, are free from active infestation, and are in such condition that they are capable of being received, stored, and packed without undue deterioration or spoilage, shall be considered as storable raisins.

(a) *Natural (sun-dried) Seedless and Monukka raisins.* Natural condition Natural (sun-dried) Seedless and Monukka raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured, and shall meet the following additional requirements: (1) Shall be fairly free from damage by sugaring, mechanical injury, sunburn, or other similar injury; (2) shall have a normal characteristic color, flavor, and odor of properly prepared raisins; (3) shall contain not more than 5 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well-matured grapes), and shall also contain at least 50 percent well-matured or reasonably well-matured raisins; (4) shall not exceed 16 percent moisture as determined by the dried fruit moisture tester method, except that there shall be no maximum moisture content for Cluster Seedless raisins; and (5) shall be of such quality and condition as can be expected to withstand storage as provided in the order and that when processed in accordance with good commercial practice will meet the minimum standards for processed raisins established by the Committee, and that with respect to Cluster Seedless raisins, in addition to the above requirements the raisins shall be fairly free from shattered (or loose end) berries, and be uniformly cured; shall contain 30 percent or more "2 Crown" or larger size berries; and shall be of such quality and condition that when processed in accordance with good commercial practice will, except for moisture content, meet the minimum standards for processed raisins established by the Committee.

* * * * *

7. Section 989.702(g) of Subpart—Quality Control (7 CFR 989.701–989.702) is revised and a new § 989.702(h) is added to read as follows:

§ 989.702 Minimum grade standards for packed raisins.

* * * * *

(g) *Cluster Seedless raisins*—(1) *Description.* Raisins referred to as "Cluster Seedless raisins" means the raisins have not been detached from the main bunch. Cluster Seedless raisins shall at least meet the requirements of Marketing Order Grade B prescribed in this paragraph. The processed raisins are prepared from clean, sound, dried grapes; are stored or cleaned, or both, and are washed with water to assure a wholesome product.

(2) *Grades.* (i) Marketing Order Grade A is a quality of Cluster Seedless raisins that have similar varietal characteristics; have a good typical color; have a good characteristic flavor; are uniformly cured and show development characteristics of raisins prepared from well-matured grapes; contain not more than 23 percent, by weight, of moisture; that not less than 30 percent, by weight, of the raisins, exclusive of stems and branches, are "2 Crown" size or larger and meet the additional requirements as outlined in the table in paragraph (2)(iv) of this paragraph.

(ii) Marketing Order Grade B is the quality of the Cluster Seedless raisins that have similar varietal characteristics; have a reasonably good typical color; have a good characteristic flavor; are uniformly cured and show characteristics of raisins prepared from reasonably well-matured grapes; contain not more than 23 percent, by weight, of moisture; that not less than 30 percent, by weight, of raisins, exclusive of stems and branches, are "2 Crown" size or larger and meet the additional requirements as outlined in the table in paragraph (2)(iv) of this paragraph.

(iii) Substandard is the quality of Cluster Seedless raisins that fail to meet the requirements of Marketing order Grade B.

(iv) Allowances for defects in Cluster Seedless raisins:

Defects	Marketing order grade A	Marketing order grade B
	Maximum (percent by weight)	
Sugared	5	10
Discolored, damaged, or moldy	5	7
Provided these limits are not exceed:		
Damaged	3	4
Moldy	2	3
Substandard Development and Undeveloped	2	5
Shattered (or loose) individual berries and small clusters of 2 or 3 berries each	Practically free	Reasonably free
	Appearance or edibility of product	
Slightly discolored or damaged by fermentation or any other defect not described above	May not be affected	May not be more than slightly affected
Grit, sand, or silt	None of any consequence may be present that affects the appearance or edibility of the product.	

(h) A handler may grind raisins which do not meet the minimum grade standards prescribed in paragraphs (a) through (g) of this section because of mechanical damage or sugaring, into a raisin paste.

Dated: August 28, 1985.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 85–21056 Filed 9–3–85; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1472

Loans, Purchases, and Other Operations; Payment Program for Shorn Wool and Unshorn Lambs (Pulled Wool) (1985)

Correction

In FR Doc. 85–20051, beginning on page 34079, in the issue of Friday, August 23, 1985, make the following correction:

On page 34079, third column, in the **ACTION** line, "Final rule" should read "Interim rule".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-ASW-12; Amdt. 39-5128]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Model AS 350 and AS 355 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) which requires repetitive inspection and repair or replacement, as necessary, of the main rotor mast on Aerospatiale (SNIAS) Model AS 350 and AS 355 helicopters. This amendment is needed because the FAA has determined that the repetitive inspection interval for visual inspections specified in the existing AD is inadequate to detect all

main rotor mast cracks in sufficient time to prevent mast failure and subsequent loss of control of the helicopter. This amendment decreases the previous inspection interval.

DATES:

Effective Date: September 18, 1985.

Compliance: As prescribed in body of AD.

ADDRESSES: The applicable service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

A copy of each of the service bulletins is contained in the Rules Docket, Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, TX 76106.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Manager, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, APO NY 09667, telephone number 513.38.30, or R. T. Weaver, Rotorcraft Standards Staff, ASW-110, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone number (817) 877-2548.

SUPPLEMENTARY INFORMATION: This amendment further amends Amendment 39-4599 (48 FR 14351), AD 83-07-05, as amended by Amendments 39-4698 (48 FR 37924), and 39-4887 (49 FR 29054), which currently requires inspection of the main rotor mast and repair or replacement, as necessary, on Aerospatiale (SNIAS) Model AS 350 and AS 355 series helicopters. After issuing Amendment 39-4887, the FAA has determined, based on service experience, that the repetitive intervals required by the AD are inadequate. Since Amendment 39-4887 was issued, an additional extensive mast flange crack was found on a Model AS 350 helicopter. The French airworthiness authorities determined that daily inspections were necessary and issued French AD's 85-94-25(B) and 85-95-40(B) which require daily visual inspections; therefore, the FAA is further amending Amendment 39-4599, as amended, by reducing the visual inspection interval from 50 hours to daily on Aerospatiale Model AS 350 and AS 355 helicopters.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Manager, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, APO NY 09667, telephone number 513.38.30, or R. T. Weaver, Rotorcraft Standards Staff, ASW-110, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone number (817) 877-2548.

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Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation only involves 399 aircraft at an annual cost of $10,500 per aircraft. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291, and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By further amending Amendment 39-4599 (48 FR 14351), AD 83-07-05, as amended by Amendments 39-4698 (48 FR 37924) and 39-4887 (49 FR 29054), by revising paragraphs (e) and (f) as follows:

Aerospatiale Helicopter Corporation (SNIAS): Applies to Aerospatiale Model AS 350 and AS 355 series helicopters certificated in all categories.

Compliance is required as indicated (unless already accomplished).

* * * * *

e. For AS 355 helicopters (within 10 hours' time in service from the effective date of this amended AD, unless already accomplished):

(1) * * *

(2) Visually inspect the mast upper flange-to-shaft radius before the first flight of each day. Inspect for finish * * *

(3) Upon the accumulation of 450 hours' total time in service, remove from service any main rotor mast which does not qualify for limited saline environment operation. To qualify for consideration of limited saline environment operations, an individual Model AS 355 helicopter mast must comply with all the following:

(i) It must not be operated over saltwater for a major part (excess of 50 percent) of any month.

(ii) It must not have a total of 300 hours' or more time in service of over saltwater operations.

(iii) It must not be installed on a helicopter that had a main rotor mast replaced due to corrosion.

f. For AS 350 helicopters (within 10 hours' time in service from the effective date of this amended AD, unless already accomplished):

(1) * * *

(2) Visually inspect the mast upper flange-to-shaft radius before the first flight of each day. Inspect for finish * * *

* * * * *

This amendment becomes effective September 18, 1985.

This amendment amends Amendment 39-4599 (48 FR 14351), AD 83-07-05, as amended by Amendments 39-4698 (48 FR 37924), and 39-4887 (49 FR 29054).

Issued in Fort Worth, Texas, on August 20, 1985.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 85-20983 Filed 9-3-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket No. 84N-0319]

FD&C Yellow No. 5

AGENCY: Food and Drug Administration.

ACTION: Final rule; removal of stay.

SUMMARY: The Food and Drug Administration (FDA) is permanently listing FD&C Yellow No. 5 for use in externally applied drugs and in cosmetics generally. The agency is also removing this color additive from the provisional list and is removing the stay on the use of FD&C Yellow No. 5 in external cosmetics. These actions respond to a petition filed by the Certified Color Industry Committee.

DATES: Effective October 7, 1985. Objections by October 4, 1985.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION:

I. Introduction

In 1960, Congress passed the Color Additive Amendments (the amendments). In *Certified Color Mfg. Ass'n* v. *Matthews*, 543 F.2d 284, 286-287 (D.C. Cir. 1976), the United States Court of Appeals for the District of Columbia Circuit explained the purpose of this legislation:

> The Color Additive Amendments of 1960 reflect a Congressional and administrative response to the need in contemporary society for a scientifically and administratively sound basis for determining the safety of artificial color additives, widely used for coloring food, drugs, and cosmetics. The Amendments reflect a general unwillingness to allow widespread use of such products in the absence of scientific information on the effect of these products on the human body. The previously used system had some glaring deficiencies, and the 1960 Amendments were designed to overcome them. * * *
>
> [Footnotes omitted.]

As amended, section 706(a) of the Federal Food, Drug, and Cosmetic Act (the act) provides that a color additive will be deemed unsafe for use in food, drugs, cosmetics, and some medical devices unless FDA has issued a regulation permanently listing that color additive for its intended use (21 U.S.C. 376(a)). FDA will issue such a regulation only if it has been presented with data that establish with reasonable certainty that no harm will result from the use of the color additive. The burden of presenting such data is on the person who is seeking approval of the use of the additive.

In passing the amendments, Congress provided for the provisional listing of the color additives in use at that time, pending completion of the scientific investigation needed for a determination about the safety of these additives (section 203(b) of the transitional provisions of the amendments, Title II, Pub. L. 86-618, 74 Stat. 404-407 (21 U.S.C. 376, note)). Section 81.1 of the agency's color additive regulations (21 CFR 81.1) enumerates those color additives that are still provisionally listed. Among them is FD&C Yellow No. 5 for use in externally applied drugs and cosmetics generally, along with its lakes which are provisionally listed in § 81.1(a).

II. Regulatory History

In the **Federal Register** of March 27, 1965 (30 FR 4083), FDA announced that a petition, now identified as CAP 5C0023, proposing the issuance of a regulation to provide for the safe use and certification of FD&C Yellow No. 5 as a color additive for foods, drugs, and cosmetics had been filed by Certified Color Industry Committee, c/o Hazelton Laboratories, Inc., P.O. Box 30, Falls Church, VA 22046 (now 9200 Leesburg Turnpike, Vienna, VA 22180). The petition was filed under section 706 of the act (21 U.S.C. 376).

Presently, FD&C Yellow No. 5 is permanently listed for use in food (21 CFR 74.705) and ingested drugs (21 CFR 74.1705) and is provisionally listed for use in externally applied drugs and in cosmetics generally (21 CFR 81.1(a)), subject to conditions under 21 CFR 81.27. The lakes of FD&C Yellow No. 5 are also provisionally listed in 21 CFR 81.1(a). The color additive is presently listed under the name 5-oxo-1-(*p*-sulfophenyl)-4-[(*p*-sulfophenyl)azo]-2-pyrazoline-3-carboxylic acid, trisodium salt. A final rule published in the **Federal Register** of February 22, 1966 (31 FR 3008) and revised May 8, 1969 (34 FR 7447), permanently listed FD&C Yellow No. 5 for use in food and in ingested drugs (confirmation of effective date: 34 FR 11542; July 12, 1969).

FDA permanently listed the color additive for these uses on the basis of available toxicological data from animal feeding studies. The agency found that the data, which were derived from feeding studies that conformed to then existing toxicological testing standards, were sufficient to establish the safety of these ingested uses. The agency concluded, however, that dermal toxicity studies were necessary before it could make a decision on the use of FD&C Yellow No. 5 in cosmetics and in externally applied drugs. The petitioner objected to FDA's decision not to permanently list FD&C Yellow No. 5 for use in cosmetics and in externally applied drugs. FDA decided to continue the provisional listing of the color additive for these uses pending completion of dermal toxicity studies (34 FR 7447; May 8, 1969).

In the **Federal Register** of January 21, 1974 (39 FR 2358), FDA published a final rule permanently listing the color additive for use in external cosmetics (21 CFR 74.2705, formerly 21 CFR 8.7255). However, a manufacturer of color additives, a manufacturer of cosmetics, and a trade association filed timely objections to that order. These objections challenged FDA's decision not to permanently list the use of FD&C Yellow No. 5 in (1) ingested cosmetics; (2) hair straighteners, permanent wave preparations, and depilatories; and (3) externally applied drugs. One objection also challenged the agency's failure to permanently list the use of the lakes of FD&C Yellow No. 5.

The filing of objections automatically served to stay the effectiveness of the order (section 701(e)(2) of the act (21 U.S.C. 371(e)(2)). Therefore, FDA published a notice in the **Federal Register** of February 4, 1977 (42 FR 6805), announcing that the permanent listing of FD&C Yellow No. 5 for use in external cosmetics was stayed pending resolution of the objections. The agency now has sufficient information to conclude that the use of FD&C Yellow No. 5 in externally applied drugs and in cosmetics generally is safe. Therefore, the agency is now removing the stay of § 74.2705 (21 CFR 74.2705) and is revising the regulation to include the cosmetic and drug uses of the color additive that had not been included in the stayed regulation.

To establish permanent regulations for lakes, FDA proposed the listing of, and specifications for, lakes of permanently listed color additives in the **Federal Register** of May 11, 1965 (30 FR 6490). However, because no certified color additives were permanently listed in 1965, the agency did not issue a final rule on the proposal, and the provisional regulations for lakes under Parts 81 and 82 have remained in effect.

In the **Federal Register** of June 22, 1979 (44 FR 36411), FDA published a notice of intent to propose rules concerning lakes

of color additives. This notice discussed the general areas of concern in the development of a new proposal for the regulation of lakes. Although several color additives have been permanently listed under Part 74, the agency did not consider the permanent listing of their lakes to be appropriate because questions about the safety and use of the lakes had arisen. Because of the amount of time that had passed since the 1965 proposal, the agency concluded that a new proposal on lakes should be developed and published. Therefore, FDA withdrew its original proposal (44 FR 36411) and requested information for use in the development of a new proposal for the regulation of lakes.

The agency is deferring the issue of lakes for the reasons discussed in the notice of intent to propose rules published in the **Federal Register** of June 22, 1979 (44 FR 36411). Lakes of certified color additives, including FD&C Yellow No. 5, will be addressed in a future **Federal Register** publication.

III. Toxicological Testing of FD&C Yellow No. 5

In the **Federal Register** of September 23, 1976 (41 FR 41860) (Docket No. 76N-0366), FDA stated that the available toxicological studies are inadequate to support the permanent listing of several color additives, including FD&C Yellow No. 5. The agency explained that the studies were deficient in the following respects:

1. Many of the studies were conducted using groups of animals, i.e., control and those fed the color additive, that are too small to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color. The small number of animals used does not, in and of itself, cause this result, but when considered together with the other deficiencies in this listing, does do so. By and large, the studies used 25 animals in each group; today FDA recommends using at least 50 animals per group.

2. In a number of the studies, the number of animals surviving to a meaningful age was inadequate to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color additives tested.

3. In a number of the studies, an insufficient number of animals was reviewed histologically.

4. In a number of the studies, an insufficient number of tissues was examined in those animals selected for pathology.

5. In a number of the studies, lesions or tumors detected under gross examination were not examined microscopically.

The agency proposed that the continued provisional listing of several color additives, including FD&C Yellow No. 5, be conditioned upon at least one petitioner undertaking new chronic feeding studies for each of these color additives.

Regarding FD&C Yellow No. 5, FDA intended that the required chronic studies would provide evidence upon which to determine whether to list the color additive for use in externally applied drugs and in cosmetics generally. Additionally, the agency noted that these studies would serve to replace the generally antiquated and deficient studies that supported the permanent listing regulations then in effect for the color additive.

When the petitioner agreed to sponsor the required chronic toxicity studies for the color additive, FDA postponed the closing date for the provisional listing of FD&C Yellow No. 5 to January 31, 1981, in a notice published in the **Federal Register** of February 4, 1977 (44 FR 6992).

FDA later extended the closing date for completing the chronic toxicity studies and submitting data (March 27, 1981; 46 FR 18954). The current closing date for the provisional listing of the color additive is September 3, 1985 (50 FR 23294; June 3, 1985).

IV. Evaluation of the Safety of FD&C Yellow No. 5

A. Statutory Safety Requirements

Under section 706(b)(4) of the act, the so-called "general safety clause" for color additives, a color additive cannot be listed for a particular use unless the data presented to FDA establish that the color is safe for that use. Although what is meant by "safe" is not explained in the general safety clause, the legislative history makes clear that this word is to have the same meaning for color additives as for food additives. (See H. Rept. No. 1761, "Color Additive Amendments of 1960," Committee on Interstate and Foreign Commerce, 86th Cong., 2d Sess. 11 (1960).) The Senate report on the Food Additives Amendment of 1958 states:

> The concept of safety used in this legislation involves the question of whether a substance is hazardous to the health of man or animal. Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstances.
>
> This was emphasized particularly by the scientific panel which testified before the subcommittee. The scientists pointed out that it is impossible in the present state of scientific knowledge to establish with complete certainty the absolute harmlessness of any chemical substance.

S. Rept. No. 2422, "Food Additives Amendment of 1958," Committee on Labor and Public Welfare, 85th Cong., 2d Sess. 6 (1958).

FDA has incorporated this concept of safety into its color additive regulations. Under 21 CFR 70.3(i), a color additive is "safe" if "there is convincing evidence that establishes with reasonable certainty that no harm will result from the intended use of the color additive." Therefore, the general safety clause prohibits approval of a color additive if doubts about the safety of the additive for a particular use are not resolved to an acceptable level in the minds of competent scientists. In addition, the Delaney Clause (section 706(b)(5)(B) of the act) provides that a color additive shall be deemed to be unsafe "if the additive is found by the Secretary to induce cancer when ingested by man or animal" (21 U.S.C. 376(b)(5)(B)(i)).

B. Results of Toxicology Studies

The agency has completed its evaluation of the color additive petition for FD&C Yellow No. 5, including two new chronic toxicity studies in rats and mice. The agency previously reviewed reports of several toxicity studies of FD&C Yellow No. 5 involving dogs, hamsters, rabbits, rats, and mice. The latter studies included acute oral toxicity studies; subchronic studies using dermal application and subcutaneous and intraperitoneal injection; chronic toxicity studies in which animals were exposed to the color additive through diet, skin application, and subcutaneous injection; and reproductive toxicity studies. These studies did not produce any evidence that the color additive would be unsafe for the petitioned uses. The data from dermal toxicity studies demonstrate that FD&C Yellow No. 5 is nonirritating when applied daily to either intact or abraded skin. Furthermore, FD&C Yellow No. 5 was not found to be carcinogenic upon biweekly application to the skin of mice over their lifetimes. As discussed above, FDA concluded, however, that the additional chronic toxicity studies were needed to provide data to permit the agency to make a final determination on the listing of FD&C Yellow No. 5.

The new studies represent current state-of-the-art toxicological testing. The protocols for these studies have benefited from knowledge of deficiencies in previously conducted carcinogenesis bioassays and other chronic toxicity studies. The use of large numbers of animals of both sexes, pilot studies to determine maximum tolerated dosages, two control groups (thereby effectively doubling the number of controls), and in utero exposure in one of the two species tested (the rat) significantly increase the power of these tests for detecting dose-related effects. The studies were designed and conducted in full compliance with good

laboratory practice regulations and were subject to FDA inspection while they were being conducted.

Based on its evaluation of the results of the two new chronic toxicity studies, the agency has determined that FD&C Yellow No. 5 is not carcinogenic to Charles River albino rats or Charles River CD–1 mice after lifetime dietary exposures of 0.1, 1.0, 2.0, and 5.0 percent of the diet in rats and 0.5, 1.5, and 5.0 percent of the diet in mice.

To establish a maximum acceptable daily intake, the agency identified the highest no-adverse-effect level from each study. The agency has established no adverse effect levels at 2.0 percent (1 gram per kilogram body weight per day (g/kg/day)) in the diets of rats, 1.5 percent (2.25 g/kg/day) in the diet of mice, and 2.0 percent (0.50 g/kg/day) in dogs. Although the study in dogs showed no adverse effects at any level, the highest level fed was not as high as the no-adverse-effect levels in the rat and mouse studies. Therefore, based on the study in dogs and using appropriate safety factors (21 CFR 70.40), the agency has estimated a maximum acceptable daily intake for humans of approximately 5.0 mg/kg/day (or 300 milligrams per day for a 60–kg human).

C. Carcinogenic Constituents

During the safety review, the agency developed a new analytical methodology for examining the color additive for the presence of trace level impurities. Analyses by this new methodology found six carcinogenic impurities in commercial, certified batches of FD&C Yellow No. 5 (Ref. 1). The carcinogenic constituents that the agency detected are 4-aminoazobenzene, 4-aminobiphenyl, aniline, azobenzene, benzidine, and 1,3-dephenyltriazene. These impurities result from impurities in the starting materials used to manufacture FD&C Yellow No. 5 and from reactions involving these impurities during the manufacturing process (Ref. 2). The regulation set forth below establishes specifications that would limit the concentrations of all six of these impurities in future batches.

Because of its concerns about the carcinogenic impurities in FD&C Yellow No. 5, the agency has analyzed representative samples from 25 certified batches of the color additive (Ref. 1). The results, in parts per billion (ppb), of the analyses for the 6 carcinogenic impurities in these 25 batches are summarized in Table I.

TABLE I

Constituent	No. of batches (out of 25) containing detectable levels of impurity	Range of impurity concentrations, ppb	Average impurity level, ppb*
4-Aminoazobenzene	10	Less than 1*-431	26
4-Aminobiphenyl	19	Less than 1*-4*	2
Aniline	25	5-491	66
Azobenzene	6	Less than 2*-28	4.5
Benzidine	5	Less than 1*-13	1.5
1,3-Diphenyltriazene	2	Less than 2*-24	3.4

* Impurity concentrations were assumed to be at the detection limit when not detected. For example, the 15 batches that contained no detectable 4-aminozobenzene were assumed to contain 1 ppb of this impurity when calculating the average (arithmetic mean).

* The presence of 4-aminobiphenyl at a concentration above 1 ppb has not been confirmed. An unidentified impurity giving a response similar to that of 4-aminobiphenyl may have caused these estimated concentrations to be too high (see text).

* Detection limit.

The detection limit mentioned in the table is a visible detection limit, i.e., the approximate concentration of the impurity that causes a response on the chromatogram that is visible above the background. This limit is lower than the concentration that will produce a response that can be quantitated reliably as determined by statistical analysis. The agency is continuing to develop methodology with the goal of improving quantitation of these impurities at lower concentrations.

The concentrations listed in Table I for 4-aminobiphenyl may be exaggerated. In follow-up investigations to confirm the constituent identities, the agency discovered an impurity that interfered with the 4-aminobiphenyl response. This impurity tended to exaggerate the levels of 4-aminobiphenyl that were actually present in the additive. Using a procedure modified to remove the interference, the agency reanalyzed the samples from the 10 batches of FD&C Yellow No. 5 that, in the original survey, were found to contain 5 ppb or more of 4-aminobiphenyl. On reanalysis, FDA found that the 4-aminobiphenyl levels for these samples, which originally had been measured at from 5 to 20 ppb, were actually less than 5 ppb. The reanalyzed values for the 10 samples were used in calculating the values for 4-aminobiphenyl in Table I. Also, for purposes of constructing Table I, the agency assigned a value of 1 ppb to samples in which 4-aminobiphenyl was not detected. Also, for those samples that were not reanalyzed (15 samples), the agency retained the original values of 1 to 4 ppb, even though these values are likely to be exaggerated because of interference during the analysis.

As can be seen from the table, only aniline was present at detectable levels in all batches analyzed. FDA used the actual levels of this impurity that it detected to calculate the average level of aniline present among the batches of FD&C Yellow No 5.

The agency cannot determine whether the other five carcinogenic impurities were present in concentrations nearly equal to the detection limit or far below the detection limit. To avoid underestimating their presence, the agency has assumed their concentration to be at the visible detection limit whenever they could not be detected. Thus, for the purpose of calculating an average concentration, the agency has assumed benzidine, 4-aminobiphenyl, and 4-aminoazobenzene to be present at 1 ppb and azobenzene and 1,3-diphenyltriazene to be present at 2 ppb whenever they were reported as not detected.

D. Prior Actions by FDA

Even though appropriate testing of FD&C Yellow No. 5 did not show it to be a carcinogen, the agency still had to consider whether to list this color additive in light of the fact that it may contain these six carcinogenic impurities even though aniline was the only compound that could be detected in all batches.

In the past, FDA has terminated the provisional listing of several color additives that contained or were suspected to contain a carcinogenic impurity. (See the D&C Green No. 5 final rule published in the **Federal Register** of June 4, 1982 (47 FR 24278, 24280).) However, the agency no longer believes that it must refuse to list a color additive simply because it contains or is expected to contain a carcinogenic impurity.

As explained in the D&C Green No. 6 final rule (47 FR 14135, 14141–14142, April 2, 1982), the agency has concluded that even if a color additive contains a carcinogenic impurity, the provisions of section 706(b)(5)(B) of the act do not apply unless the color additive as a whole is found to cause cancer. The agency is confident that it possesses the capacity (through the use of extrapolation procedures) to assess adequately the upper limit of risk presented by the use of a color additive that has not been shown to be a carcinogen but that does contain a carcinogenic impurity. The estimate of the risk may be exaggerated because the extrapolation models used are designed to estimate the maximum risk. For this

reason, the estimate can be used with confidence to conclude that a substance is safe under specific conditions of use. (FDA has also explained the basis for this approach in the advance notice of proposed rulemaking on its policy for regulating carcinogenic chemicals in food and color additives published in the **Federal Register** of April 2, 1982 (47 FR 14464).)

The agency has examined the risk associated with drug and cosmetic uses of D&C Green No. 6, D&C Green No. 5, D&C Red No. 6, and D&C Red No. 7 (47 FR 57681; December 28, 1982), which contain minor amounts of *p*-toluidine. None of these color additives had been shown to be carcinogenic by appropriate bioassays. FDA concluded that the use of each of these color additives in drugs and cosmetics is safe. The agency is using the same approach for assessing the safety of the use of FD&C Yellow No. 5 that it used in its review of these other color additives.

The agency's position is supported by *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which, as explained above, contains a carcinogenic chemical but has not itself been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list D&C Green No. 5, the United States Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulations.

Because FD&C Yellow No. 5 has not been shown to cause cancer, the anticancer clause does not apply to it. FDA has evaluated the safety of this additive under the general safety clause, using risk assessment procedures to estimate the upper bound limit of risk presented by the carcinogenic chemicals that may be present as impurities in the additive, and has concluded that the additive is safe under the proposed conditions of use.

The risk assessment procedure used has two aspects: (1) assessment of the probable exposure to the impurity from the proposed use of the additive, and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable human exposure.

V. Exposure to Carcinogenic Impurities in FD&C Yellow No. 5

Although the current petition is for the use of FD&C Yellow No. 5 only in externally applied drugs and in cosmetics generally, the agency has estimated the exposure to the carcinogenic impurities that may be in FD&C Yellow No. 5 that would result from all of the permanently and provisionally listed uses of this color additive. The maximum risk from exposure to FD&C Yellow No. 5 estimated in this document is, thus, the incremental risk from all uses of the color additive, not just those uses subject to this rule.

FDA certified an average of 1.5 million pounds of FD&C Yellow No. 5 and 15 thousand pounds of D&C Yellow No. 5 lakes per year from 1978 through 1982. Lakes of FD&C Yellow No. 5 typically are 20 to 25 percent FD&C Yellow No. 5 and 75 to 80 percent lake substrate (Ref. 3). FD&C Yellow No. 5 lakes are made from certified batches of FD&C Yellow No. 5. D&C Yellow No. 5 lakes may be made from batches of the color additive that have not been certified by FDA.

Based on certified poundage data for the last 14 years, the agency projects certification of approximately 1.7 million pounds per year of FD&C Yellow No. 5 and its lakes by 1990 (Ref. 3). Per capita exposure to 1.7 million pounds per year of the color additive is 3.4 grams per year or 9.2 mg/day, if all is used by the entire U.S. population.

The agency has considered the types of products that contain FD&C Yellow No. 5 and the likely exposure to the color additive for a high user of such products. The agency has concluded that, averaged over a lifetime, a high user of such products could ingest as much as 45 mg/day, and could be exposed to 9 mg/day from dermal applications. (Ref. 3 explains in detail the basis for these estimates.)

In adopting specifications for FD&C Yellow No. 5, FDA has considered the concentrations of the carcinogenic impurities that were present in the 25 certified batches of the color additive that the agency recently surveyed.

The agency developed "tentative working specifications" by identifying a concentration (in round numbers) for each impurity consistent with current good manufacturing practice, as evidenced by the 25 batches. These levels approximate the levels of these carcinogenic impurities that were in the sample tested in the chronic toxicity studies.

FDA then estimated the maximum carcinogenic risk attributable to each impurity to evaluate whether the "tentative working specifications" were adequate. For those impurities with the greatest carcinogenic potencies, the agency revised the specifications downward to the lowest level, given current knowledge, that can be practicably produced and enforced. The agency is adopting these specifications, which are listed in the first column of Table II, in § 74.2705(b) (21 CFR 74.2705(b)).

A comparison of these specifications and the average impurity levels obtained by analyses of 25 certified batches, as shown in Table I, reveals that in most cases the average (arithmetic mean) impurity level has been far below the specifications that FDA is adopting.

Table II gives the estimated exposure of individuals to the impurities if each batch of the color additive contained each impurity at the maximum level allowed by the specifications. The per capita exposure (second column of Table II) is calculated by multiplying the per capita exposure to FD&C Yellow No. 5 described previously (9.2 mg/day) by the specification for each impurity. The high user exposure (column 3) is similarly calculated by multiplying the high user exposure (45 mg/day by ingestion) by each specification. The agency believes that systemic exposure to these impurities from dermal application is negligible compared to ingestion because the great majority of exposure to this color additive results from its ingested uses, and because only a small fraction of a dermally applied product is likely to be absorbed.

TABLE II.—ESTIMATED IMPURITY EXPOSURE

Constituent	Specification (ppb)	Per capita exposure (ng/day) [1]	High user exposure (ng/day)
4-Aminoazobenzene	75	0.7	3 (dermal = 0.7).
4-Aminobiphenyl	[2] 5	0.046	0.2.
Aniline	100	0.9	4.5.
Azobenzene	40	0.37	1.8.
Benzidine	[2] 1	0.009	0.045.
1,3-Diphenyltriazene	40	0.37	1.8 (dermal = 0.4).

[1] ng = nanograms (1 billionth of a gram).
[2] The quantitation limit for 4-aminobiphenyl and benzidine is 5 ppb, but their presence can be visualized at 1 ppb (Ref. 1).

Two of the impurities have been shown to be carcinogenic not only when ingested but also when applied externally. In such instances, the agency has also estimated the dermal exposure alone. The agency then separately estimated the risks from all systemic exposure and from dermal exposure alone. FDA based its estimates of risk from dermal exposure on the skin painting studies and on the high user external exposure to FD&C Yellow No. 5 (9 mg/day) (Ref. 3).

VI. Risk Extrapolations

The second part of the evaluation of the risk presented by the presence of the impurities is an extrapolation from the actual compound-related incidence of tumors found in animal bioassays under conditions of exaggerated exposure to the conditions of probable exposure for humans.

The agency has used estimates of carcinogenic potency and estimates of exposures to the carcinogenic impurities for high users of FD&C Yellow No. 5 (with all carcinogenic impurities at the maximum concentrations allowed by the specifications) to estimate risks for exposure to each impurity. The agency then summed these risks to derive the maximum upper bound risk associated with lifetime exposure to FD&C Yellow No. 5.

The agency searched the scientific literature for evidence on the carcinogenicity of the impurities found in FD&C Yellow No. 5. If more than one study found one of these impurities to be carcinogenic, the agency identified the study that was most suitable to estimate risk. While, in general, these studies were not designed to estimate risk and were often deficient under current standards, they are the only studies available and can not be ignored. Also, the reports did not always provide all the information necessary for a risk estimate. The agency has thus attempted to make assumptions and corrections that would provide estimates that are reasonable while not underestimating the risk. These assumptions and corrections are discussed more fully in the discussions of each constituent.

4-Aminoazobenzene

The agency has evaluated reports showing that 4-aminoazobenzene is carcinogenic in the diet of rats (Refs. 4 and 5), and that it is carcinogenic when applied dermally to rats (Ref. 6). The agency has developed a risk estimate from each of these studies.

A study implicating 4-aminoazobenzene as a carcinogen by dietary administration to Wistar rats was reported by Kirby et al. (Refs. 4 and 5). The study reported that 7 of the 16 animals in the treated group were found to have liver cell neoplasms after a total of 120 weeks. Six rats in this group displayed papillomas of the stomach. No information is available to determine whether any of the individual rats had neoplasms in both the liver and the stomach. Although the dose was allowed to vary throughout the experiment, the agency calculated the average dose over 120 weeks to be 0.25 percent in the diet (Ref. 7).

A skin painting study applying 1.0 milliliter (mL) of a 0.2 percent acetone solution containing 4-aminoazobenzene (corresponding to a dose of 2.0 mg of 4-aminoazobenzene per application) to the skin twice weekly was performed on six male albino rats as a part of a larger study utilizing a number of azo compounds (Ref. 6). All six male rats in the treatment group displayed skin neoplasms after 123 weeks compared to none in the control group.

The agency has estimated that the lifetime risk of cancer from all systemic exposure to 4-aminoazobenzene (ingested and absorbed through the skin) is less than 5 in 10 billion (Refs. 7, 8). The data indicate, however, that 4-aminoazobenzene may be a more potent carcinogenic at the site of application to the skin than when absorbed systemically. The agency has estimated that the lifetime risk of skin cancer from dermal application is less than 1 in 100 million (Refs. 7, 8). Because the risk estimate for dermally applied products is larger than for ingested products, FDA is using this higher estimate to evaluate total risk.

4-Aminobiphenyl

A number of studies in different species have been performed on 4-aminobiphenyl. The agency has chosen a dog study reported both by Block et al. and by Rippe et al. for quantitative risk assessment because the data on this study yield a higher risk estimate than data from other studies (Ref. 9, 10).

In this study, 24 pure-bred female beagle dogs were administered 4-aminobiphenyl orally, by capsule, at a dosage level of 5 mg/kg body weight for 5 days a week. Cystoscopic examinations were made routinely starting at 16 months and up to 41 months after commencement of treatment. Diagnoses at 24 months showed that 22 of 24 treated dogs had bladder papillomas. Because this incidence is so high, data at later times show essentially the same incidence. Data at earlier times show a lower incidence, proportional to the lesser exposure time. The agency concludes that data obtained at 24 months are the most reliable for risk assessment because, among other reasons, more complete histopathology was performed at this time (Ref. 10).

Under circumstances in which lifetime risk must be estimated from studies that are performed for less than a lifetime, the data must be corrected to account for the fact that the animals were at risk for less than a lifetime. Typically, tumor incidence has been thought to be proportional to some power of time (Ref. 11). The agency believes that in the absence of specific data, it is reasonable to make adjustments based on a model that uses the third power of the time exposed (Refs. 10, 11).

Because 24 months represent approximately one-fifth of the lifetime of a beagle dog, the agency has corrected for the rapid induction of these neoplasms in the calculation of lifetime risk. Extrapolating directly from the data and making a correction for less than lifetime exposure, the agency estimates that the lifetime risk of cancer from systemic exposure to 4-aminobiphenyl in products containing FD&C Yellow No. 5 is less than 1 in 10 million (Refs. 8, 10).

Aniline

Data reported by the National Cancer Institute (NCI) demonstrated that aniline was carcinogenic to the spleen of Fischer 344 rats (Ref. 12). This finding has subsequently been verified by a dietary study performed by the Chemical Industry Institute of Toxicology (CIIT) using the same strain of rat (Ref. 13). FDA used data from the CIIT study to estimate that the lifetime risk of cancer from systemic exposure to aniline in products containing FD&C Yellow No. 5 is less than 5 in 100 billion (Refs. 8, 14).

Azobenzene

In an NCI-sponsored bioassay reported in 1979, azobenzene induced a dose-related increase in the incidence of sarcomas of the abdominal cavity, particularly the spleen, in both sexes of Fischer 344 rats (Ref. 15). Three groups of animals (0, 200, and 400 parts per million (ppm) in the diet) per sex were used in the study. From this study, the agency estimates that systemic exposure to azobenzene in products containing FD&C Yellow No. 5 presents a lifetime risk of less than 2 in 10 billion (Refs. 8, 16).

Benzidine

FDA used a human epidemiology study by Zavon (Ref. 17) and a study performed by Rinde and Troll in the Rhesus monkey (Ref. 18) as the basis for a quantitative risk assessment on benzidine.

Zavon attempted to obtain good data on exposure to benzidine by analyzing the urine of workers in a plant that manufactures this substance. The workers were monitored until a number of them were diagnosed as having bladder neoplasms. Urine levels of benzidine in workers were measured before each work shift, after each work shift, and on every Monday morning. Average levels were: before work, 0.01 mg/liter (L); after work, 0.04 mg/L; and on Monday morning before work, somewhat below 0.005 mg/L.

No controlled study with the administration of benzidine and the concomitant measurement of benzidine in the urine in humans has been performed. Thus, the conversion from urine concentration to total exposure cannot be made from human data alone. However, the Rinde and Troll study

related ingestion of benzidine to amounts of benzidine and monoacetylbenzidine in the urine of rhesus monkeys. The agency believes it is reasonable to use this study to relate urine concentration to exposure for humans (Ref. 19). This procedure yields a higher risk estimate than if the risk was estimated solely from an animal feeding study and thus is less likely to underestimate risk.

In the Rinde and Troll study, benzidine was administered orally to Rhesus monkeys, and the 72-hour urine collection was analyzed for benzidine and monoacetylbenzidine. In two trails the amount of benzidine and monoacetylbenzidine excreated in the urine was 1.4 percent and 1.5 percent of the initial input. The agency used these data, and applied a safety factor of two to compensate for uncertainties, to estimate that the amount of benzidine and monoacetylbenzidine excreted in the urine of humans is approximately 3 percent of that consumed. The agency then calculated that the average human worker in the Zavon study was exposed to approximately 0.8 mg benzidine per work day.

Based on these two studies the agency estimates that systemic exposure to benzidine from products containing FD&C Yellow No. 5 presents a lifetime risk of less than 3 in 10 million (Refs. 8, 19).

1,3-Diphenyltriazene

The agency has evaluated reports showing that 1,3-diphenyltriazene is carcinogenic in the diet, and that it is carcinogenic when applied dermally. A study performed by Otsuka (Ref. 22), while deficient in certain aspects, showed that 1,3-diphenyltriazene produced forestomach tumors in mice upon dietary exposure. The compound was administered in the diet at a concentration of 0.04 percent for 483 days. Although this dietary study is quite old and was terminated after 16 months, the agency believes that it is usable if corrected for less than lifetime exposure. Assuming the average lifetime of a mouse is 24 months, the agency has corrected for less than lifetime exposure by assuming the risk of cancer increases as the third power of the time exposed (Refs. 11, 21). Therefore, the agency has used a correction factor of 3.4, i.e., (24 months/16 months) ^{3}, which increases the estimated risk.

Using this correction, the agency estimates that systemic exposure to 1,3-diphenyltriazene from products containing FD&C Yellow No. 5 presents a lifetime risk of less than 2 in a billion (Refs. 8, 21).

A lifetime skin painting study using 1,3-diphenyltriazene on mouse skin was performed by Kirby (Ref. 22). The skin study involved a thrice weekly application of a 5 percent solution of the test compound in acetone. In 18 mice surviving more than 300 days, 3 developed squamous cell papilloma, and 3 developed squamous cell carcinoma. One mouse that developed a carcinoma could not be identified as part of this experiment or a parallel experiment. The agency has assumed that this mouse was part of this experiment so as not to underestimate risk. As was often the case in the 1940's, when this study was conducted, the amount of solution applied to the skin of the animals was not accurately measured and thus not reported for this experiment. The failure to measure and to report this information creates problems in conducting a quantitative risk assessment. However, in later years, the standard protocol for these kinds of studies in mice became the application of 0.20 mL of solution to the area of the skin. Because the agency does not know that as much as 0.20 mL was applied, it has made a more conservative assumption that 0.10 mL was used to estimate the risk. Using this procedure, the agency estimates that dermal exposure to 1,3-diphenyltriazene from products containing FD&C Yellow No. 5 presents a lifetime risk of less than 4 in 100 billion (Refs. 8, 21).

VII. Cumulative Risk Estimates

This action represents the first time the agency has set specifications for more than one carcinogenic constituent in the same color additive. Thus, in evaluating the safety of the additive, the agency had to consider the most appropriate way to evaluate the risk from consuming small amounts of several carcinogenic agents simultaneously.

The Office of Science and Technology Policy discussed the issue of exposure to multiple carcinogenic agents in a document entitled "Chemical Carcinogens; A Review of the Science and Its Associated Principles" (50 FR 10371, 10394; March 14, 1985) as follows:

Since people are exposed to many different agents at the different times in different sequences, the effect of multiple agents on carcinogenesis is of major concern. However there is little information of general import in the field. Models for interaction are generally limited by lack of information on dose-response curves for carcinogens in the area of interest. The great number of permutations of possible agents and doses makes understanding interaction of multiple agents very difficult.

In general, the action of two or more agents can be additive (if the agents are given in a dose range where the biological response is a linear function of dose) or multiplicative (if the response is a simple exponential response to dose), synergistic (greather than expected) or antagonistic (less than expected).

The agency knows of no method whereby potential multiplicative, synergistic, or antagonistic interactions can be incorporated into a generalized risk assessment process. Furthermore, at the dose levels under consideration (far below those having measurable pharmacologic or physiologic activity), the agency sees no reason to consider synergistic or antagonistic interactions. When one extrapolates carcinogenicity data linearly downward to very low doses, one is, in effect, assuming that the molecules of the carcinogens are acting independently, and that no interactions occur. Thus, if the probability of developing cancer from one substance is independent of the probability of developing cancer from another substance, then the probability of developing cancer from either substance may be obtained from summing the individual probabilities. Therefore, in the absence of specific information on the interactions among the carcinogenic impurities, the agency believes that, operationally, the risks incurred from the presence of multiple carcinogenic impurities in a color/food additive can be considered independent, and that the estimated risks should be summed.

The individual risk estimates discussed earlier show that 4-aminobiphenyl and benzidine are, by far, the most potent of the carcinogens present in the additive. Table III shows the total upper bound risk, estimated by summing the risk estimate from each carcinogenic impurity when present at the highest level, consistent with specifications, to be 4 in 10 million.

TABLE III.—UPPER BOUND RISK ESTIMATES BASED ON SPECIFICATIONS FOR CARCINOGENIC IMPURITIES IN FD&C YELLOW NO. 5

Constituent	Lifetime cancer risk
4-Aminoazobenzene	0.00000001 (1×10^{-8}).
4-Aminobiphenyl	0.0000001 (1×10^{-7}).
Aniline	0.00000000004 (4×10^{-11}).
Azobenzene	0.000000002 (2×10^{-9}).
Benzidine	0.0000003 (3×10^{-7}).
1,3-Diphenyltriazene	0.000000002 (2×10^{-9}).
Sum [1]	0.0000004 (4×10^{-7}).

[1] In summing risk estimates, numbers have been rounded off to the nearest significant figure.

The agency emphasizes that these upper bound risk estimates are worst case estimates that are used to assure that there is a reasonable certainty that use of an additive will not cause harm. They are not intended to predict an actual risk. Consequently, several assumptions used for the estimate tend

to overestimate rather than underestimate risk. For example, the linear model used to extrapolate risk to low dose exposure is a conservative model. It is used to generate an upper bound estimate of an unknown risk.

Furthermore, the agency's risk estimates are based on the assumption that all carcinogenic impurities are present at the maximum concentrations allowed by the regulation. In reality, any batch with any impurity concentration above a specification would be rejected while batches with lower concentrations would be allowed. Therefore, unless all batches of certified color additive have impurity concentrations exactly at the specification limits, the average concentration of each impurity will be lower than the maximum allowed.

This fact is exemplified in Table I which shows that the average concentration of four of the impurities was well below the concentration specified in the regulation, even though particular batches did exceed these specifications. Moreover, the average level of one impurity, benzidine, was above the specification only because of one batch, which would not be certified under the new regulation, and because the agency has assumed that undetected benzidine is present at the detection limit of the analytic method. (Actually, benzidine could not be detected in 20 of 25 batches).

Finally, the agency points out that FD&C Yellow No. 5 did not induce cancer in the recent carcinogenicity studies in rats and mice at very high dietary levels (5 percent), much higher than human dietary exposure.

Public Citizen Health Research Group (HRG), 2000 P St. NW., Washington, DC 20036, in a sub.ission dated December 17, 1984, petitioned FDA to ban 10 food, drug, or cosmetic dyes, including FD&C Yellow No. 5. With regard to FD&C Yellow No. 5, HRG cited the recent long-term rat and mouse feeding studies discussed in this document, other older animal feeding studies in the scientific literature, allergenic effects, chromosomal damage, and the presence of carcinogenic impurities to support their claim that use of FD&C Yellow No. 5 is unsafe.

The agency denied the HRG petition by letter dated June 21, 1985. That response includes a detailed discussion of FDA's findings relative to FD&C Yellow No. 5 and is incorporated herein by reference.

To summarize its findings, the agency disagreed with HRG's conclusion that FD&C Yellow No. 5 should be banned. HRG asserted that in the recent rat and mouse studies various treatment groups displayed: Decreased weight gain; increased incidence of lymphocytic lymphoma; increased incidence in thyroid tumors; and increased incidence of endometrial polpys. However, the only one of these effects that the agency finds to be treatment-related is a decreased weight gain in the high-dose treated rats. FDA considered this effect in determining the no observed effect level. FDA does not agree that the other effects cited by HRG are treatment-related because the incidences were either not significantly different from that in the controls or the incidences were not increased in the highest dose group.

HRG also cited earlier published studies that they claim showed an increase in lung tumors in mice and an increase in mammary fibroadenomas in rats. FDA finds that the cited study in mice was a very poor study from which it cannot draw reliable conclusions. FDA does not consider mammary fibroadenomas in the rat study to be treatment-related because a dose-response relationship was not seen. Furthermore, the claimed effects were not seen in the recent tests in rats and mice submitted as part of this petition. The reports of chromosomal aberrations in selected in vitro tests do not negate the rsults demonstrating safety in long-term animal feeding studies because lifetime whole animal studies are more relevant to carcinogenic potential than are short-term in vitro tests.

The agency announced its conclusions regarding allergic-type effects of FD&C Yellow No. 5 several years ago (44 FR 37212; June 26, 1979) and required special labeling for products containing this color additive. The safety concerns arising from carcinogenic impurites are discussed more fully in this document. In sum, the agency concludes that the data cited by HRG with respect to FD&C Yellow No. 5 are not sufficient to preclude the permanent listing on this color additive.

The six carcinogenic impurities found in FD&C Yellow No. 5 are likely to be present in other color additives also. Therefore, simultaneous exposure to other color additivies containing these impurities presents a potential risk beyond that resulting from FD&C Yellow No. 5. The agency has considered the potential presence of these impurities in other color additives as part of its evaluation of FD&C Yellow No. 5. The agency cannot, however, estimate the potential risk from these impurities in all other additives at this time, for several reasons.

Two of the additives expected to contain some or all of these impurities, D&C Red No. 33 and FD&C Yellow No. 6, are currently provisionally listed and under review. Exposure to these impurities from these two color additives will depend on whether these color additives are permanently listed and, if so, what specifications the agency sets for these additivies. Thus, the agency cannot make reasonable estimates of exposure to the impurities in these additives until all remaining issues affecting decisions on these additivities are resolved.

Furthermore, the agency only recently developed the analytical methodology that detected these impurities at the part-per-billion level. The agency has only applied this methodology to those additives on which a decision on permanent listing is pending. Thus, the agency does not yet have reliable data on the level of human exposure, if any, to these impurities from permanently listed additives not under current review.

Nevertheless, the agency believes that the maximum risk to consumers from the use of FD&C Yellow No. 5, as discussed earlier, is sufficiently low that it can conclude that the use of batches of FD&C Yellow No. 5 that meet the specifications adopted by this rule is safe. The agency will review any risk resulting from exposure to these impurities in other color additives, and will take whatever regulatory action is needed to protect the public health, when sufficient information is available for an appropriate decision.

References

The following references have been placed on file at the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

1a. Memorandum, "Determination of Aromatic Amines, Diphenyltriazene and Azobenzene in Commercial Samples," CAP 5C0023, November 3, 1983.

1b. Memorandum, "4-Aminobiphenyl in FD&C Yellow No. 5," CAP 5C0023, November 1, 1984.

2. Memorandum, "FD&C Yellow No. 5 Chemistry Issues Related to Listing," CAP 5C0023, April 28, 1983.

3. Troxell, T. C., "Memorandum for the Record," Color Additive Petition, CAP 5C0023, February 17, 1984.

4. Kirby, A. H. M., et al., "Studies in Carcinogenesis with Azo Compounds," *Cancer Research*, 7:333, 1947.

5. Kirby, A. H. M., et al., "The Induction of Liver Tumors by 4-aminoazobenzene and its N,N-Dimethyl Derivative in Rats on a Restricted Diet," *Journal of Pathology and Bacteriology*, 59:1–18, 1947.

6. Fare, G., "Rat Skin Carcinogenesis by Topical Applications of Some Azo Dyes," *Cancer Research*, 26:2406, 1966.

7. Quantitative Risk Assessment Committee, Memorandum, "Report of the Committee on 4-Aminoazobenzene (Dietary and Skin Exposure)", CAP 5C0023, December 20, 1983.
8. Quantitative Risk Assessment Committee, Memorandum, "Upper Limit Risk from Carcinogenic Impurities in FD&C Yellow No. 5," CAP 5C0023, August 26, 1985.
9a. Block, N. L., et al., "The Initiation, Process and Diagnosis of Dog Bladder Cancer Induced by 4-Aminobiphenyl," *Investigative Urology*, 16:50–54, 1978.
9b. Rippe, D. F., et al., "Urinary Bladder Carcinogenesis in Dog: Preliminary Studies on Cellular Immunity," *Transplantation Proceedings*, 7:495–501, 1975.
10. Quantitative Risk Assessment Committee, Memorandum, "Report of the Committee on 4-Aminobiphenyl", CAP 5C0023, December 20, 1983.
11. Druckrey, H., "Quantitative Aspects in Chemical Carcinogenesis," U.I.C.C. Monograph Series, 7:60–78 (1967).
12. "National Cancer Institute, Bioassay of Aniline Hydrochloride for Possible Carcinogenicity," NCI Technical Report No. 130, NCI–CG–TR–130, U.S. Department of Health, Education, and Welfare, Public Health Service, National Institutes of Health, 1978.
13. Chemical Industry Institute of Toxicology, Research Triangle Park, NC, "104 Week Chronic Toxicity Study in Rats: Aniline Hydrochloride," Final Report, January 4, 1982.
14. Quantitative Risk Assessment Committee, Memorandum, "Committee Report on Aniline," CAP 5C0023, December 20, 1983.
15. National Cancer Institute, "Bioassay of Azobenzene for Possible Carcinogenicity," NCI Technical Report No. 154, NCI–CG–TR–154, U.S. Department of Health, Education, and Welfare, Public Health Service, National Institutes of Health, 1979.
16. Quantitative Risk Assessment Committee, Memorandum, "Committee Report on Azobenzene," CAP 5C0023, December 20, 1983.
17. Zavon, M. R., et al., "Benzidine Exposure as a Cause of Bladder Tumors," *Archives of Environmental Health*, 27:1–7, 1973.
18. Rinde, E. and W. Troll, "Metabolic Reduction of Benzidine Azo Dyes to Benzidine in the Rhesus Monkey," *Journal of the National Cancer Institute*, 55:181–182, 1975.
19. Quantitative Risk Assessment Committee, Memorandum, "Committee Report on Benzidine," CAP 5C0023, December 20, 1983.
20. Otsuka, I., "Uber die Experimentelle Papillomerzeugung im Vormagen der Mausen durch Diozoaminobenzol," *Gann*, 29:209–214, 1935.
21. Quantitative Risk Assessment Committee, Memorandum, "Committee Report on 1-3-Diphenyltriazene (Dietary and Dermal Exposure)," CAP 5C0023, December 20, 1983.
22. Kirby, A. H. M., et al., "Further Experiments in Mice With p-Diazoaminobenzene," *British Journal of Cancer*, 2:290–294, 1948.

Conclusions

The agency concludes that FD&C Yellow No. 5 is safe for general use in cosmetics and for use in externally applied drugs, and that certification is necessary for the protection of the public health. Therefore, the agency is amending §§ 74.1705 and 74.2705 to permit these uses. This action satisfies the objections that stayed § 74.2705. Therefore, the agency is removing the stay of that regulation.

The final chronic toxicity study reports, interim reports, reports on dermal testing, and the agency's toxicology evaluations of these studies supporting the safety of the color additive for uses involving ingestion and dermal application are on file at the Dockets Management Branch (address above). They may be reviewed there between 9 a.m. and 4 p.m., Monday through Friday.

The agency is describing the color additive in this regulation according to the current Chemical Abstracts nomenclature, which differs somewhat from the nomenclature FDA previously used.

The agency is establishing new chemical specifications for these listings that identify the color additive more precisely than those specifications currently in § 74.705. Published elsewhere in this issue of the **Federal Register** is a proposal to amend the identity and specifications for FD&C Yellow No. 5 in § 74.705 to make them consistent with the identity and specifications in this rule.

The agency concludes that it is necessary to include in the listing regulations for FD&C Yellow No. 5 a brief description of its manufacturing process to ensure the safety of the color additive. FDA has included that description to define as closely as possible the color additive that has been tested and shown to be safe. The agency is doing so because use of a different manufacturing process is likely to produce different impurities that have not been considered in establishing specifications for this color additive. The agency is not able at this time to set specifications that would control the presence of all such impurities. FDA is willing to consider petitions for alternative manufacturing processes, but those petitions should contain evidence that demonstrates that those processes will not produce impurities that will make use of the color additive unsafe.

The agency has contracted with the National Academy of Sciences/National Research Council (NAS/NRC) to develop appropriate specifications for color additives for use in food as part of the Food Chemicals Codex. Similarly, appropriate specifications for color additives for use in drugs and cosmetics will be developed following the general guidelines used by NAS/NRC in its evaluation of color additives used in food. The agency concludes that specifying, through a general description, the manufacturing process in the regulations for this color additive will provide an adequate assurance of safety until suitable specifications can be developed.

The agency knows of two manufacturing processes for FD&C Yellow No. 5, currently being used by industry, both of which are encompassed in the description in § 74.2705. Production of the color additive as specified will assure qualitatively similar batches and thus adequately assure the absence of harmful impurities resulting from changes in the manufacturing process.

The agency finds that because of the presence of six carcinogenic impurities, specifications for these impurities are necessary to protect the public health. Therefore, specifications as listed in Table II, column 2, of this preamble are included in the regulation.

FD&C Yellow No. 5 Lakes

To simplify the regulations pertaining to the FD&C Yellow No. 5 lake, the agency is removing the specific entry for the FD&C Yellow No. 5 lake from the table in § 81.1(a) because it is redundant. The FD&C Yellow No. 5 lake previously has been specifically cited as provisionally listed for use in foods in the first entry in the table in § 81.1(a). This specific entry was added to the table when FDA permanently listed the straight color additive for food and ingested drug use (34 FR 11542; July 12, 1969). Before that time, FDA provisionally listed the lakes of regulated FD&C colors for use in food, drugs, and cosmetics under the entry "Lakes (FD&C)" in the same table in § 81.1(a) (formerly § 8.501(a)). By including the separate entry for the FD&C Yellow No. 5 lake in the table, FDA intended to emphasize that while it had permanently listed the straight color additive for food use, the lake was still provisionally listed for that use. Upon the deletion of the separate entry for the FD&C Yellow No. 5 lake, the lake use of the color additive will remain provisionally listed under the general entry for FD&C lakes in § 81.1(a). The agency has announced its intention to establish permanent regulations for lakes of color additives and is currently assembling the information that is

needed to achieve that end (44 FR 36411: June 22, 1979).

The agency has determined under 21 CFR 25.24 (b)(3) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Any person who will be adversely affected by the following regulations may at any time on or before October 4, 1985 file with the Dockets Management Branch (address above) written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provision of the regulation deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of 21 CFR 71.30. If a hearing is requested, the objections shall state the issues for the hearing and shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Three copies of all documents shall be filed and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 74

Color additives, Cosmetics, Drugs, Medical devices.

21 CFR Part 81

Color additives, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 74, 81, and 82 are amended as follows:

1. The authority citation for 21 CFR Part 74 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

2. Part 74 is amended:

a. In § 74.1705 by revising paragraphs (a) and (b) to read as follows:

§ 74.1705 FD&C Yellow No. 5.

(a) *Identity and specifications.* (1) For ingested drugs, the color additive FD&C Yellow No. 5 shall conform in identity and specifications to the requirements of § 74.705(a)(1) and (b).

(2) For externally applied drugs, the color additive FD&C Yellow No. 5 shall conform in indentity and specifications to the requirements of § 74.2705(a) and (b).

(3) Color additive mixtures for drug use made with FD&C Yellow No. 5 may contain only those diluents that are suitable and are listed in Part 73 of this chapter as safe for use in color additive mixtures for coloring drugs.

(b) *Uses and restrictions.* FD&C Yellow No. 5 may be safely used for coloring drugs generally in amounts consistent with current good manufacturing practice.

* * * * *

b. By revising § 74.2705 to read as follows:

§ 74.2705 FD&C Yellow No. 5.

(a) *Identity.* The color additive FD&C Yellow No. 5 is principally the trisodium salt of 4,5-dihydro-5-oxo-1-(4-sulfophenyl)-4-[(4-sulfophenyl)azo]-1*H*-pyrazole-3-carboxylic acid (CAS Reg. No. 1934–21–0). To manufacture the additive, 4-aminobenzenesulfonic acid is diazotized using hydrochloric acid and sodium nitrite. The diazo compound is coupled with 4,5-dihydro-5-oxo-1-(4-sulfophenyl)-1*H*-pyrazole-3-carboxylic acid. The resulting dye is precipitated as the sodium salt.

(b) *Specifications.* FD&C Yellow No. 5 shall conform to the following specifications and shall be free from impurities other than those named to the extent that such other impurities may be avoided by good manufacturing practice:

Sum of volatile matter at 135 °C (275 °F) and chlorides and sulfates (calculated as sodium salts), not more than 13 percent.
Water-insoluble matter, not more than 0.2 percent.
4,4'-[4,5-Dihydro-5-oxo-4-[(4-sulfophenyl)hydrazono]-1*H*-pyrazol-1,3-diyl]bis[benzenesulfonic acid], trisodium salt, not more than 1 percent.
4-[(4',5-Disulfo[1,1'-biphenyl]-2-yl)hydrazono]-4,5-dihydro-5-oxo-1-(4-sulfophenyl)-1*H*-pyrazole-3-carboxylic acid, tetrasodium salt, not more than 1 percent.
Ethyl or methyl 4,5-dihydro-5-oxo-1-(4-sulfophenyl)-4-[(4-sulfophenyl)hydrazono]-1*H*-pyrazole-3-carboxylate, disodium salt, not more than 1 percent.
Sum of 4,5-dihydro-5-oxo-1-phenyl-4-[(4-sulfophenyl)azo]-1*H*-pyrazole-3-carboxylic acid, disodium salt, and 4,5-dihydro-5-oxo-4-(phenylazo)-1-(4-sulfophenyl)-1*H*-pyrazole-3-carboxylic acid, disodium salt, not more than 0.5 percent.
4-Aminobenzenesulfonic acid, sodium salt, not more than 0.2 percent.
4,5-Dihydro-5-oxo-1-(4-sulfophenyl)-1*H*-pyrazole-3-carboxylic acid, disodium salt, not more than 0.2 percent.
Ethyl or methyl 4,5-dihydro-5-oxo-1-(4-sulfophenyl)-1*H*-pyrazole-3-carboxylate, sodium salt, not more than 0.1 percent.
4,4'-(1-Triazene-1,3-diyl)bis[benzenesulfonic acid], disodium salt, not more than 0.05 percent.
4-Aminoazobenzene, not more than 75 parts per billion.
4-Aminobiphenyl, not more than 5 parts per billion.
Aniline, not more than 100 parts per billion.
Azobenzene, not more than 40 parts per billion.
Benzidine, not more than 1 part per billion.
1,3-Diphenyltriazene, not more than 40 parts per billion.
Lead (as Pb), not more than 10 parts per million.
Arsenic (as As), not more than 3 parts per million.
Mercury (as Hg), not more than 1 part per million.
Total color, not less than 87 percent.

(c) *Uses and restrictions.* FD&C Yellow No. 5 may be safely used for coloring cosmetics generally in amounts consistent with current good manufacturing practice.

(d) *Labeling.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of FD&C Yellow No. 5 shall be certified in accordance with regulations in Part 80 of this chapter.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

3. The authority citation for 21 CFR Part 81 continues to read as follows:

Authority: Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note); 21 CFR 5.10.

4. Part 81 is amended:

§ 81.1 [Amended]

a. In § 81.1 *Provisional lists of color additives*, by removing the entry for "FD&C Yellow No. 5" from the table in paragraph (a).

§ 81.27 [Amended]

b. In § 81.27 *Conditions of provisional listing*, by removing the entry for "FD&C Yellow No. 5" from the table in paragraph (d).

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

5. The authority citation for 21 CFR Part 82 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

6. Part 82 is amended by revising § 82.705 to read as follows:

§ 82.705 FD&C Yellow No. 5.

The color additive FD&C Yellow No. 5 shall conform in identify and specifications to the requirements of § 74.2705 (a) and (b) of this chapter.

Dated: August 23, 1985.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 85–21082 Filed 8–30–85; 8:45 am]

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21 CFR Part 81

[Docket No. 76N–0366]

Provisional Listing of Certain Color Additives; Postponement of Closing Dates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing dates for the use of nine provisionally listed color additives, FD&C Red No. 3 and its lakes, FD&C Yellow No. 6, D&C Red No. 8, D&C Red No. 9, D&C Red No. 19, D&C Red No. 33, D&C Red No. 36, D&C Red No. 37, and D&C Orange No. 17. This postponement will permit the uninterrupted use of these color additives while (1) FDA receives and evaluates the report of a scientific review panel on six color additives (FD&C Red No. 3, D&C Red No. 8, D&C Red No. 9, D&C Red No. 19, D&C Red No. 37, D&C Orange No. 17) and then takes final action on those additives; (2) the agency evaluates newly submitted information on the results of the chronic study on one color additive (FD&C Yellow No. 6); and (3) expert scientific review continues with respect to the evidence on two other color additives (D&C Red No. 33 and D&C Red No. 36), proponents of the use of these additives have an opportunity to submit additional evidence on their use, and FDA takes final action on these color additives.

DATES: Effective September 3, 1985, the new closing dates for FD&C Red No. 3 and its lakes will be September 3, 1986; for D&C Red No. 8, D&C Red No. 9, D&C Red No. 19, D&C Red No. 37, D&C Orange No. 17, and FD&C Yellow No. 6 will be June 6, 1986; for D&C Red No. 33 and D&C Red No. 36 will be March 3, 1987.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5676.

SUPPLEMENTARY INFORMATION:

I. Introduction

Under Title II of the Color Additive Amendments of 1960 (the transitional provisions) (Pub. L. 86–618, sec. 203 (21 U.S.C. 376, note)), FDA is authorized to postpone the closing date of the provisional listing of a color additive. The agency's discretion in issuing such postponements is limited in only two respects: "Such postponements must be consistent with the public health, and the Commissioner must judge that the scientific investigations are going forward in good faith and will be completed as soon as reasonably practicable." *McIlwain* v. *Hayes*, 690 F.2d 1041, 1047 (D.C. Cir. 1982).

In the **Federal Register** of June 26, 1985 (50 FR 26377), FDA proposed to postpone the closing date for 9 (FD&C Red No. 3 and its lakes, FD&C Yellow No. 6, D&C Red No. 8, D&C Red No. 9, D&C Red No. 19, D&C Red No. 33, D&C Red No. 36, D&C Red No. 37, and D&C Orange No. 17) of the 11 color additives that remain on the provisional list. (As for the other two additives, FDA is permanently listing one, FD&C Yellow No. 5, elsewhere in this issue of the **Federal Register**, and the closing date for the other, FD&C Blue No. 2, is postponed indefinitely pending the outcome of an administrative hearing on the permanent listing of that additive.) FDA proposed this postponement after a series of short extensions of the provisional listings of these nine additives because it had become clear to the agency that appropriate resolution of the complex issues presented by the uses of these additives would require additional time.

In response to the proposal, FDA received approximately 40 comments from farmers, farm cooperatives, food processors, unions, State legislators, public interest groups, and trade associations. These comments are summarized below.

FDA has carefully considered these comments and has also considered whether, in light of these comments, the extensions that it has proposed are appropriate under the standards set forth in *McIlwain* v. *Hayes*. The conclusions that the agency has reached follow.

II. General Comments

A. Authority To Extend the Provisional List

1. One comment asserted that "25 years after the enactment of the Color Additive amendments," FDA "has no legal authority to use the provisional list to sanction the continued sale of color additives." The comment stated that FDA must either find these color additives to be safe or not permit their use in foods, cosmetics, and drugs. Another comment stated that continued provisional listing "makes a mockery" of permanent listing.

FDA finds no merit in these comments. As noted in the proposal, as scientific sophistication has increased and testing methodology has become more refined, new and increasingly complex issues have been raised concerning the provisionally listed additives.

Less than 3 years ago, in *McIlwain* v. *Hayes, supra*, 690 F.2d at 1047, the Court of Appeals specifically rejected the argument that the passage of time had deprived the agency of its authority to list color additives provisionally. The court noted that the transitional provisions of the Color Additive Amendments set no limit on the number of extensions of the provisional list that the Commissioner may grant and no time limit upon provisional listings. *Id.* at 1046. Consequently, the court found that FDA had authority to extend the provisional list even though 22 years had passed since the passage of the Color Additive Amendments. *Id.* at 1047.

Thus, based on the *McIlwain* decision, FDA can continue to extend the provisional listing of a color additive so long as it finds that continued use of the additive is consistent with the public health, and that the scientific investigations necessary for a decision on the additive, or the analysis of those investigations, are going forward in good faith and will be completed as soon as reasonably practicable. Because the agency has determined that it can make these findings for each of the color additives at issue, FDA has authority to adopt the extensions of the provisional list that it is announcing in this final rule.

2. A comment from a public interest group asserted that to extend the provisional list again, without proof of the safety of the additives, would put the public at unnecessary risk.

FDA disagrees with this comment. As stated above, to postpone the

provisional listing of a color additive, FDA must find that the postponement is consistent with the public health. *McIlwain* v. *Hayes, supra*, 690 F.2d at 1047. Thus, protection of the public health is one of the agency's specific concerns in deciding whether to extent the provisional list.

The purpose of provisional listing is to allow continued use of a color additive while interested persons gather evidence on the issue of whether use of that additive is safe. Until definitive evidence on that issue is available, the agency can continue to list an additive provisionally so long as the testing that is available on the color additive does not show that it presents a hazard to the public. See FDA's response to petition of Public Citizen Health Research Group for termination of provisional listing for 10 color additives, Docket No. 84P-0429, p. 13 (June 21, 1985). (A copy of this response has been filed with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fisher Lane, Rockville, MD 20857, in the record of the present proceeding.)

FDA has reviewed all of the evidence available on each of the color additives that are the subject of this rulemaking and has found that none of them presents a hazard requiring an immediate cessation of their use. Therefore, the public is being appropriately protected.

B. De Minimis and the Delaney Clause

3. The statutory provisions governing permanent listing of color additives state that a color additive shall be deemed to be unsafe if it has been shown to cause cancer in appropriate testing (21 U.S.C. 376(b)(5)(B)). In the proposal, however, the agency stated: "If the agency were to treat extremely small carcinogenic risks as being *'de minimis,'* that is, as being of no regulatory significance, it could [permanently] list a carcinogenic color additive if it found that the risk from its use was *de minimis*, and that, in all other respects, there was a reasonable certainty of no harm from the use of the additive" (50 FR 26379). This statement was the subject of much public comment. FDA received five comments that encouraged the agency to apply the *de minimis* concept. These comments all argued that the statutory language, legislative history, and case law support an interpretation of 21 U.S.C. 376(b)(5)(B) that does not require FDA to ban color additives that present a *de minimis* risk of cancer. One comment argued that substances that pose no greater than a one in one million lifetime cancer risk present a *de minimis* risk and are safe. This comment also argued that the agency could permanently list eight of the nine color additives at issue on the ground that the carcinogenic risk they present, if any, is *de minimis*.

On the other hand, one comment argued that the suggestion that a *de minimis* risk assessment might be an appropriate basis on which to permit permanent listing of a color additive is inconsistent with the legislative intent of the Federal Food, Drug, and Cosmetic Act (the act) and its historical interpretation by FDA. That comment argued that under the Delaney Clause, "only risk-free, non-cancer causing color additives can be permitted in the American marketplace." A second comment also urged the agency to reject the *de minimis* concept.

FDA has not made a definitive determination about the application of the Delaney Clause to the color additives at issue here. However, as it has indicated in the proposal and in the agency's response to Public Citizen Health Research Group's petition, the agency believes that the law would support the treatment of certain situations arguably covered by that provision as *de minimis*.

The courts have made it clear that the concept of *"de minimis,"* which is based on the common understanding that the law does not concern itself with trifles, may appropriately be applied to situations like those in question here. As the United States Court of Appeals for the District of Columbia Circuit explained in *Alabama Power Co.* v. *Costle*, 636 F.2d 323, 360-361 (D.C. Cir. 1979): "Unless Congress has been extraordinarily rigid, there is likely a basis for an implication of *de minimis* authority to provide exemption when the burdens of regulation yield a gain of trivial or no value."

The legislative history of the Color Additive Amendments shows that Congress was not being extraordinarily rigid in adopting the Delaney Clause, and that it clearly contemplated that those administering that provision would have discretion to implement it in a reasonable way. Both in the Senate (see 106 Congressional Record 15381 (July 1, 1960)) and in the House (see 106 Congressional Record 14372 (June 25, 1960)), statements were made that the Delaney Clause should be applied in accord with the rule of reason. Moreover, the concept of *de minimis* has been applied by the courts to the regulation of carcinogenic or potentially carcinogenic substances regulated by FDA. See, e.g., *Monsanto* v. *Kennedy*, 613 F.2d 947 (D.C. Cir. 1079). Thus, it is clear that FDA does have the option to use the *de minimis* concept in interpreting the Delaney Clause. (FDA has discussed this issue at greater length in its response to the Public Citizen Health Research Group petition and in two documents (Reply Memorandum in Support of Federal Defendants' Motion to Dismiss and Memorandum in Support of Federal Defendants' Motion for Summary Judgment) that it filed in pending litigation on the provisional list, *Public Citizen* v. *Dept. of Health and Human Services*, Civil Action No. 85-0209 (D.D.C.). FDA incorporates those discussions herein by reference and has included copies of those documents in the record of this proceeding.)

FDA has not made a determination about whether it would be appropriate to invoke the *de minimis* concept with respect to the color additives at issue here because it believes that such a determination must await resolution of the factual circumstances in which the concept may be applied. Such scientific factual resolution is necessary so that the agency can fully judge the significance of applying the *de minimis* concept to the facts before it. Therefore, the agency has not made a determination about what level of risk, if any, is *de minimis*, or, as explained below, whether any of the color additives at issue can be approved on the basis, at least in part, of the *de minimis* concept.

C. Amount of Color Certified

4. One comment argued that in considering the total amount of color additives to which the population is exposed, it is erroneous to add the poundage of lakes and dyes together. The comment asserted that because lakes are made from certified dyes, the amount of dye certified gives the total exposure to color.

The agency's proposal to extend the closing date for provisionally listed color additives did not address the issue of exposure calculations for these color additives. The comment appears to respond to the Commissioner's reply to the petition submitted by the Public Citizen Health Research Group. In its petition, Public Citizen estimated the exposure to provisionally listed color additives used in food and the total exposure to provisionally listed color additives.

In his response to the petition, the Commissioner did not contest the figures cited by Public Citizen, which were apparently based on the agency's certification poundage for these color additives, including lakes. The Commissioner did note that FD&C color additives are used not only in food but

also in drugs and cosmetics, so that certification poundage for an FD&C color additive does not equal the poundage actually used in food. Public Citizen's estimates of exposure to FD&C Red No. 3, FD&C Yellow No. 5, and FD&C Yellow No. 6 were based on the amount of color certified and did not count the poundage from lakes twice.

However, in estimating total exposure to the provisionally listed D&C color additives, Public Citizen did add the total amount of color certified to the amount of lakes used. This was necessary because D&C lakes are not required to be made from certified D&C colors.

Estimating exposure in this way would lead to an overstatement of the total exposure to the straight color additive, unless the substrata of the lakes is subtracted from the total weight. Public Citizen failed to make this subtraction and FDA, as the comment correctly points out, failed to correct Public Citizen's estimate in replying to the petition, because the agency felt that such a correction would not have significantly altered the thrust of Public Citizen's argument.

FDA wishes to assure the public that when it calculates exposure to color additives as part of a safety evaluation, it does so correctly. Although the agency does include the contribution from D&C lakes in its computations, it factors out the substratum weight before arriving at an exposure estimate.

5. The comment also argued that it is misleading to compare, as FDA did in its response to the Public Citizen Health Research Group, the amount of color additives certified in 1974 with the amount certified in 1984. That comparison shows a 42 percent growth. The comment claimed that if the pounds certified each year between 1975 and 1984 were averaged, the result would be 5.3 million pounds per year for that period. According to the comment, that number is exactly the poundage certified in 1975 and approximately the poundage that the comment projected would be certified in 1985. The comment claimed that, thus, there really had not been an increase in the amount of color additives certified each year since 1974.

The agency has reevaluated the certification poundage for FD&C color additives from 1974 to 1985. The figures cited in the comment are correct; however, the figure for 1976 (4.998 million pounds) represents five quarters rather than four because of a change in the fiscal year from July 1 to October 1. The agency agrees that the data do not show an increase of 42 percent in the amount of color additive certified. However, the agency does not agree that there has been no growth in color additive certification in the past 10 years. If one looks at the 5-year averages over this period, the 5-year average increases from 4.929 million pounds (1975–1979, 5¼ years) to 5.340 million pounds (1979–1983). This represents about a 10 to 15 percent increase over that timespan.

II. Color Additives That Are Subject to Review by the Scientific Review Panel

6. In the proposal, FDA stated that treatment-related increases in the incidence of tumors were found in chronic testing for six of the provisionally listed color additives, but that questions had been raised about the significance of these results. The agency stated that it had formed a color additive scientific review panel (the panel) to look into these questions and proposed to extend the provisional listing of these color additives to allow the panel to do its work. The agency received 33 comments about these 6 color additives.

A. D&C Red No. 8, D&C Red No. 9, D&C Red No. 19, D&C Red No. 37, and D&C Orange No. 17

7. A comment from the petitioner for these color additives argued that the data currently before FDA support the permanent listing of these additives. This comment argued that the quantitative risk assessments that have been conducted on the uses of these additives show that none of them poses a significant risk of human cancer, and that therefore they should be permanently listed under a *de minimis* interpretation of the Delaney Clause.

FDA is unable to agree with this comment. As discussed in the proposal, questions have been raised that create doubts about whether a valid risk assessment can be performed on the basis of the chronic testing that has been done on these color additives. See 50 FR 26379. The Commissioner created the panel to address these issues. Because the panel has not completed its work, the questions about the risk assessments that the petitioner submitted remain. Therefore, the agency is unable to act on the permanent listing of these color additives at this time.

8. The comment argued in the alternative that FDA's proposal to extend the provisional list to permit evaluation of the data on these five color additives by the panel represents a rational exercise of the agency's authority under the Color Additive Amendments. The comment asserted that the panel's evaluation will help the agency to resolve the issues on the uses of these color additives. However, the agency also received two comments that argued that because these additives had been shown to be carcinogens, they should be banned.

With respect to the latter comments, as discussed in paragraph 3 in this preamble, FDA believes that an interpretation of the act is possible that does not require the agency to ban color additives that have been shown to cause cancer in animals, if the risk associated with the use of such additives is essentially negligible. Therefore, FDA does not accept these comments.

The Commissioner has reviewed the proposed extension under the standards established in *McIlwain* v. *Hayes, supra*, 690 F.2d at 1047. He has reexamined the evidence on these color additives and has confirmed his conclusion that their continued provisional use for 9 months is consistent with the public health. The Commissioner has also concluded that the review of the scientific evidence on these color additives is going forward in good faith. The panel has prepared a preliminary draft report, and it presented an oral report to the Commissioner in June. The panel has now sent its draft report to 49 scientists around the country for review. The Commissioner expects to receive the final report of the panel this fall.

Once the panel completes its report, the Commissioner will review it and decide how the agency will proceed with regard to these additives. Documents setting forth the agency's conclusions about the safety of these additives (announcing further action, permanent listing, or removal of the additives from the provisional list) will then be prepared for publication in the **Federal Register.** The Commissioner concludes that allowing 9 months for completion of this process is reasonable.

Therefore, the Commissioner finds that an extension of the provisional listing of D&C Red No. 8, D&C Red No. 9, D&C Red No. 19, D&C Red No. 37, and D&C Orange No. 17 until June 6, 1986, fully complies with the standards in *McIlwain* v. *Hayes, supra.*

9. The petitioner for these color additives stated in its comment that it had initiated new testing of D&C Red No. 9, D&C Red No. 19, and D&C Orange No. 17. It stated that these studies include efforts to prepare pure colors for research purposes, to determine oral bioavailability of the pure color and its metabolites, and to compare the short-term toxicity of the purified colors with the toxicities generally shown in the tests of the commercial color additives. The comment stated that these studies provided an additional basis for

extending the provisional listings of these color additives.

The agency is aware that the petitioner has asserted that it has initiated new studies on D&C Red No. 9, D&C Red No. 19, and D&C Orange No. 17. The details of the protocols and the rationale for these studies have not been submitted to the agency. Consequently, the agency is not aware of how these studies could contribute to an appropriate resolution of the issues raised with respect to these color additives. Therefore, on the basis of available information, the agency is unable to agree with the comment's assertion that the initiation of these studies provides an additional basis for extending the provisional listing of these color additives.

B. FD&C Red No. 3

10. Comments from three trade associations asserted that the evidence before the agency on FD&C Red No. 3 establishes the safety of the use of this color additive. These comments reviewed the results of recently conducted studies that were designed to explore whether the tumors observed in the chronic study of this color additive were the result of hormonal stimulation rather than of the direct action of FD&C Red No. 3. Among these studies were two short-term studies in rats, and in vitro study, pharmacokinetic studies, and a study of the effects of FD&C Red No. 3 on humans.

The comments asserted that these studies suggest that the tumors observed in the chronic rat study resulted from a hormonal mechanism that was indirectly mediated by FD&C Red No. 3; that there is a threshold for this effect; that the compound is not mutagenic and does not accumulate in the thyroid; and that when consumed by humans, nearly all of the administered compound is excreted in the feces. The comments asserted that the data demonstrate that FD&C Red No. 3 is safe, and that its provisionally listed uses should be permanently listed.

FDA is unable to agree with these comments. The agency's initial review of the information from these studies indicated that they do not provide a sufficient basis upon which to draw a definite conclusion on whether FD&C Red No. 3 is a secondary carcinogen. This initial review raised questions about whether the submission actually supported the sponsor's hypothesis that there was a hormonal mechanism of tumor induction. The agency has not been able to complete its evaluation of these studies because much of the raw data from them was not submitted to FDA until July 25, 1985. Moreover, on July 25, 1985, the sponsor also submitted two additional studies that address the issue of a possible secondary mechanism. The agency has not yet completed its evaluation of these new studies. Thus, at least at the present time, FDA is unable to find that the evidence before the agency on FD&C Red No. 3 establishes the safety of the use of this color additive.

11. One trade association commented that even if FDA concludes that FD&C Red No. 3 does not act by a secondary mechanism, FDA can permanently list this color additive for cosmetic uses based on the quantitative risk assessment that this trade association performed and the application of the *de minimis* concept to the results.

FDA disagrees. The risk assessment that this trade association has submitted is subject to many of the questions that have been raised about the risk assessments on the five color additives discussed above. See response to Public Citizen Health Research Group petition, p. 20. Because of these questions, the Commissioner referred the risk assessment on FD&C Red No. 3 to the panel for review. Thus, the Commissioner concludes that it would be inappropriate for the agency to take any action on the basis of the risk assessment at this time. Moreover, as discussed in paragraph 3 of this preamble, FDA has not made a definitive determination about the appropriateness or applicability of the *de minimis* concept.

12. This trade association also argued in its comment that FDA should permanently list the cosmetic uses of FD&C Red No. 3 without regard to the secondary mechanism issue because any risk from the cosmetic uses of this additive would be *de minimis* against the background of its permanently listed food uses. The comment argued that such action would be consistent with FDA's lead acetate decision (45 FR 72122; October 30, 1980).

FDA does not agree that the lead acetate decision is directly applicable in all respects to the immediate case at this time. In the lead acetate decision, FDA pointed out that its conclusion was "based upon the unusual combination of scientific facts peculiar to lead acetate in hair dyes" (45 FR 72115). Among the unique factors in the lead acetate case were that lead is ubiquitous in the environment, and that humans normally have lead in their blood (45 FR 72113). FDA determined that the amount of human lead absorption from the use of lead acetate in hair dyes would have no discernible effect on the level of lead in human blood (45 FR 72114). The agency is not able to make these findings for FD&C Red No. 3.

13. The three trade associations, in the alternative, all supported FDA's proposal to extend the provisional listing of FD&C Red No. 3, so that the panel could consider the evidence on the mechanism of action of this additive. There were 28 other comments that also supported this proposed action. Two comments opposed this proposal, stating that FD&C Red No. 3 has been shown to be a carcinogen.

FDA rejects the latter two comments for the same reasons that, in paragraph 8 of this preamble, it rejected the arguments that it terminate the provisional listing of the five other color additives. Moreover, questions about the mechanism of action of RD&C Red No. 3 remain to be resolved.

The Commissioner has reviewed the proposed extension under the *McIlwain* standards. He has concluded that a 1-year extension of the provisional list will ensure that the review of the data on FD&C Red No. 3 is completed as quickly as reasonably practicable. Such an extension will allow time for the agency to complete its review of the data and of the new studies that were recently submitted. It will also allow the panel to review the results of the scientific investigations of this color additive and to report to the agency on its findings. The Commissioner considers review by the panel to be necessary before he can decide whether the petitioners have demonstrated that this additive works by a secondary mechanism; whether they have shown that there is a safe level of use for this additive (and, if so, what that level is); and whether, if they have not done so, new studies of FD&C Red No. 3 are necessary. The 1-year extension will allow the agency time to review the panel report and the other evidence on this color additive and to take appropriate action.

In addition, the Commissioner has reviewed the evidence on this color additive and confirmed his conclusion that continued use of FD&C Red No. 3 for its provisionally listed uses for 1 year is consistent with the public health. Therefore, FDA is adopting a final rule extending the provisional listing of this additive until September 3, 1986.

14. Two trade associations commented that until FDA heard from the panel, it would be premature to evaluate whether further chronic testing of FD&C Red No. 3 is necessary to establish a secondary mechanism. Both comments urged that if the agency should come to believe that such testing is necessary, it should propose that

testing in a separate rulemaking. One trade association stated that if the agency should conclude than an additional study on FD&C Red No. 3 is necessary, the association will seriously consider sponsoring study.

FDA agrees that it would be premature to require a new chronic study on FD&C Red No. 3. The agency advises, however, that if, after hearing from the panel and completing its own review, it appears that such a study is necessary, it will move as quickly as possible to propose to require such a study, even if there is a significant amount of time left before the September 3, 1986, closing date.

IV. The Color Additive About Which Additional Information Is Being Developed—FD&C Yellow No. 6

15. In the proposal, FDA explained that it had not completed its review of the scientific investigations on FD&C Yellow No. 6. The agency reported that rare tumors had been found in the kidneys of female rats fed the color additive in a chronic study, but that agency scientists have doubts as to whether this effect was actually caused by the color additive. The agency stated that to clarify this issue, it had asked the petitioner to prepare and submit additional kidney slides. It proposed to extend the provisional listing of FD&C Yellow No. 6 for 9 months to give itself an opportunity to review and to evaluate these slides and the other data on this additive. The agency stated that it also needed time to evaluate the carcinogenic impurities that may be present in this color additive (50 FR 26380).

FDA received six comments on its proposed action.

16. One comment asserted that FD&C Yellow No. 6 has been shown to be an animal carcinogen.

FDA does not agree with this comment. Although there was a suggestion of a dose-related increase of relatively rare tumors in the kidneys of Charles River CD rats tested with this additive, the agency has not yet confirmed that these tumors are compound-related. The agency has completed an initial review of the additional kidney slides that it received at the time the proposal was published and has found a higher incidence of proliferative-type lesions in the kidneys of the treated than in the control rats. However, because an unexpectedly high incidence of proliferative lesions was found in the controls on reexamination, the agency believes that there is reason to question the significance of this observation. Therefore, the agency finds that additional review of the evidence on this color additive is necessary before a decision on its safety can appropriately be made.

17. This comment also asserted that FD&C Yellow No. 6 is an allergen.

The agency has investigated the two studies cited by the comment and has concluded that these studies do not provide a basis for finding that FD&C Yellow No. 6 is an allergen. The studies included a very limited number of subjects, and these subjects had complicating medical conditions. The agency is, however, attempting to locate any additional scientific articles relating to the allergenicity of FD&C Yellow No. 6 to determine whether the available data support a finding that FD&C Yellow No. 6 is an allergen.

FDA's review of the possible allergenicity of FD&C Yellow No. 6 is separate from its review of the petition for permanent listing of this color additive. If the agency determines that sufficient data exist to demonstrate the allergenicity of FD&C Yellow No. 6 for a portion of the population, other options may be considered. For example, the agency could propose labeling requirements for this color additive similar to those for FD&C Yellow No. 5. Such labeling requirements could apply to the use of the color additive regardless of whether it is provisionally or permanently listed.

18. FDA received four comments that supported the proposed extension of the provisional listing of this color additive and two that opposed it.

The Commissioner has reviewed the proposed extension under the *McIlwain* standards. FDA received the new kidney slides from the petitioner in June, and agency scientists are already well into their review. After all necessary reviews are complete, the agency will make decisions about the significance of their findings. In addition, the agency will make decisions about the carcinogenic impurities found in this additive. The latter decisions will be made more difficult by the fact that FD&C Yellow No. 6 shares some impurities with FD&C Yellow No. 5. When FDA has decided whether the use of this color additive is safe, it will prepare a **Federal Register** document announcing its decision.

Based on these facts, the Commissioner believes that FDA's review of the scientific investigations on FD&C Yellow No. 6 is going forward in good faith, and that a 9-month extension of the provisional listing of this additive will ensure that that review is completed as soon as reasonably practicable. In addition, based on his review of the evidence presently before FDA on FD&C Yellow No. 6, the Commissioner has confirmed his conclusion that continued provisional use of this color additive for 9 months, under its current conditions of use, is consistent with the public health. Therefore, FDA is extending the closing date for FD&C Yellow No. 6 until June 3, 1986.

V. Color Additives for Which FDA Proposed Further Study

19. In the proposal, FDA reported that the chronic testing of D&C Red No. 33 and D&C Red No. 36 did not reveal a carcinogenic effect in the animals in which they were tested, but that for both color additives there were a few uncommon tumors and numerous lesions of the spleen that are rare but not neoplastic. The agency stated that these proliferative effects indicated that there was a similarity between these color additives and certain other compounds, such as D&C Red No. 9 (which is presently before the panel), which have indicated carcinogenic effects. The agency also reported that a panel of experts from the National Toxicology Program (NTP) had examined the data on D&C Red No. 33 in conjunction with the data on D&C Red No. 9 and agreed with agency scientists that there is a clear relationship between the two color additives that provides a basis for concern about the possible carcinogenicity of D&C Red No. 33 (50 FR 26381). FDA received several comments that addressed the NTP review.

20. In the proposal, FDA stated that the NTP panel suggested that there might be some short-term testing that could be done to resolve the question of the possible carcinogenicity of D&C Red No. 33, but that it was not clear to FDA whether the NTP panel had any type of short-term testing specifically in mind. The agency stated that it had contacted NTP to resolve this question (50 FR 26381). FDA received one comment that asked that FDA announce NTP's response as quickly as possible.

In July, the agency was advised by a representative of NTP that the NTP panel had not recommended that further research on D&C Red No. 33 include short-term studies (Memorandum dated July 16, 1985, to Director, NTP, from Assistant to the Director, "Comments on NTP Peer Review Panel Evaluation of the Carcinogenicity Data on D and C Red No. 33"). Therefore, FDA concludes that its statement in the proposal was in error, and that there was no recommendation by NTP of short-term studies.

21. One comment from a trade association asserted that the NTP panel

had concluded that D&C Red No. 33 was not a carcinogen.

This comment does not accurately characterize the NTP's conclusions. The NTP panel's report concludes that while the quantitative evidence was insufficient to demonstrate a carcinogenic response to treatment, the qualitative observations revealed a treatment-related toxic effect on the spleen that was similar to the toxic effects produced by known splenic carcinogens among the other aromatic azo compounds. The NTP panel stated that further research is needed to develop an understanding of the mechanism of the toxic action of this family of compounds in the spleen of rats.

22. Two comments stated that the NTP panel found that the maximum tolerated dose had been exceeded in the rat bioassay of D&C Red No. 33.

FDA has reviewed the transcript of the NTP panel's deliberations. The agency believes that the sense of the NTP panel's discussion is that while the high dose in the rat study may have exceeded the maximum tolerated dose, the study nonetheless provided meaningful results.

23. FDA received two comments that argued that the currently available data on D&C Red No. 33 and D&C Red No. 36 are adequate to justify their permanent listing. One comment argued that because the chronic testing of both additives did not reveal a carcinogenic effect, FDA approval of these additives is appropriate.

FDA disagrees with these comments. The Color Additive Amendments require that the petitioner demonstrate the safety of a color additive to justify its permanent listing. Because the evidence as currently interpreted on these color additives provides a basis for concern about possible carcinogenicity that has not been adequately resolved, FDA finds that permanent listing of D&C Red No. 33 and D&C Red No. 36 is not appropriate at this time.

24. Two comments argued that even if there is a need for additional studies of D&C Red No. 33 and D&C Red No. 36, a new bioassay is not necessary. One comment said that because the concern about these color additives is their splenic toxicity in male Sprague-Dawley rats, there is no reason to conduct a full lifetime study, with attendant evaluation of all tissues and organs. Both comments asserted that the NTP panel rejected the need for new chronic studies of these additives in a different strain of rat.

The summary minutes (p. 4) of the NTP meeting show that the panel did not reject the need for another cancer study. The NTP panel felt that such a study would be useful, but that its focus should be on the mechanism of splenic effects. The NTP panel recommended that further research be done to gain a better understanding of "the mechanisms of toxic action." The NTP panel pointed out that a neoplastic response is one phase of a toxic response. An investigation of the toxic response in this situation would mean an investigation of the neoplastic response and therefore would be likely to require a long-term study, although not necessarily of the conventional bioassay type.

25. The comments suggested alternatives to chronic testing. One comment suggested calculating a risk assessment based on the comparative toxicity of D&C Red No. 9, D&C Red No. 33, and D&C Red No. 36 in Sprague-Dawley rats. This trade association also stated that it had begun to explore the possibility of conducting studies designed to elucidate the mechanism of splenic tumor development associated with monoazo compounds such as D&C Red No. 33 and D&C Red No. 36. These comments also suggested that to permit further consideration of the scientific evaluations and studies that are necessary on D&C Red No. 33 and D&C Red No. 36, FDA should extend the provisional listing of these color additives for 1 year, until September 3, 1986. FDA also received two comments that urged the agency to take these additives off the provisional list. One of these comments said the petitioner would have an opportunity to submit data even if the color additives were no longer provisionally listed.

FDA has carefully considered these comments. The agency believes that a risk assessment based on the comparative toxicity of D&C Red No. 9, D&C Red No. 33, and D&C Red No. 36 may be possible. If the splenic toxicity associated with the use of these additives is produced by their principal color components, it should be possible to predict, within reasonable limits, the potency of these color additives. Insight into the relative potency of these additives would enable the agency to make a determination about the safety of D&C Red No. 33 and D&C Red No. 36 without new long-term studies on these additives. Because the Color Additive Amendments enjoin the Commissioner to reach a decision on the provisional list as soon as reasonably practicable, he has decided to pursue the approach suggested by the comment rather than require new long-term studies. Therefore, this final rule extends the provisional listing of D&C Red No. 33 and D&C Red No. 36 for 18 months, until March 3, 1987, rather than the 5 years that the agency proposed (50 FR 26382) or the 1 year that the comments requested.

FDA is unable to proceed immediately to conduct a comparative risk assessment because questions have been raised about whether a relative potency determination can be made. If the splenic toxicity of these additives or the observed carcinogenicity of D&C Red No. 9 were likely to be caused by an impurity in any of these additives, available evidence may not be adequate to determine whether that impurity is a common ingredient. Consequently, a determination of relative potency would not be possible.

The agency believes that resolution of the questions about the feasibility of determining relative potency is likely to derive from two sources. First, the panel is currently reviewing the toxicity of D&C Red No. 9. Consequently, its report should provide important insights. In addition, after the agency has received the panel's report on D&C Red No. 9, the Commissioner will arrange for expert review that will address specifically whether a determination of the relative potency of D&C Red No. 9, D&C Red No. 33, and D&C Red No. 36 is possible.

The Commissioner invites interested parties to submit skin penetration studies and any other information relevant to the issue of relative risk as quickly as possible. The Commissioner is committed to meeting the March 3, 1987, closing date for these color additives.

The Commissioner has considered whether this extension meets the standards set forth in *McIlwain* v. *Hayes*, 690 F.2d at 1047, and concludes that it does. To complete its evaluation of the studies on D&C Red No. 33 and D&C Red No. 36 and reach a decision on these additives, the agency must hear from the panel on D&C Red No. 9, receive the results of the expert review, consider these reports and all other available data, and prepare an appropriate **Federal Register** document. Consequently, the Commissioner believes that 18 months is as soon as a decision on D&C Red No. 33 and D&C Red No. 36 can practicably be made. The Commissioner also finds that continuing to permit the provisionally listed uses of D&C Red No. 33 and D&C Red No. 36 for 18 months is consistent with the public health.

The Commissioner advises that if at any time before March 3, 1987, he concludes that a risk assessment based on the comparative toxicity of D&C Red No. 9, D&C Red No. 33, and D&C Red No. 36 is not possible, he will notify the

public of that fact and announce what action he will take with regard to these color additives.

VI. Environmental and Economic Impact

The agency has determined under 21 CFR 25.24(a)(8) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA has determined that extending the provisional listing of these color additives requires no change in the current industry practice concerning the manufacture or use of these ingredients. Therefore, FDA certifies, in accordance with section 605(b) of the Regulatory Flexibility Act, that no significant economic impact on a substantial number of small entities will derive from this action. Further, the economic effects of this final rule have been analyzed and it has been determined that it is not a major rule as defined by Executive Order 12291.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOOD, DRUGS, AND COSMETICS

1. The authority citation for 21 CFR Part 81 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

2. In § 81.1 *Provisional lists of color additives* in paragraph (a) by revising the closing date for "FD&C Yellow No. 6" to read "June 6, 1986" and by revising the closing date for "FD&C Red No. 3" to read "September 3, 1986" and in paragraph (b) by revising the closing dates for "D&C Orange No. 17," "D&C Red No. 8," "D&C Red No. 9," "D&C Red No. 19," and "D&C Red No. 37" to read "June 6, 1986" and by revising the closing dates for "D&C Red No. 33" and "D&C Red No. 36" to read "March 3, 1987."

3. In § 81.27 by removing paragraph (e) and by revising the introductory text of paragraph (d), to read as follows:

§ 81.27 Conditions of provisional listing.

* * * * *

(d) The closing dates and dates for final reports for the following 10 color additives are postponed in accordance with the following list while chronic toxicity feeding studies are conducted and evaluated and subject to compliance with the requirements of this paragraph:

	Final report due	Closing date
D&C Orange No. 17		June 6, 1986.
D&C Red No. 3		Sept 3, 1986.
D&C Red No. 8		June 6, 1986.
D&C Red No. 9		Do.
D&C Red No. 19		Do.
D&C Red No. 33		Mar. 3, 1987.
D&C Red No. 36		Do.
D&C Red No. 37		June 6, 1986.
FD&C Yellow No. 6		Do.
FD&C Blue No. 2		Date of final decision on permanent listing.

* * * * *

Dated: August 23, 1985.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 85-21081 Filed 8-30-85; 8:45 am]

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21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of FD&C Yellow No. 5 and Its Lakes; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of FD&C Yellow No. 5 for use in coloring cosmetics generally and externally applied drugs and of its lakes for use in coloring food and ingested drugs. The new closing date will be November 5, 1985. This brief postponement will provide time for the receipt and evaluation of any objections submitted in response to the final rule, published elsewhere in this issue of the **Federal Register**, approving the petition for the listing of FD&C Yellow No. 5 in cosmetics generally and in externally applied drugs and also continuing the provisional listing of its lakes.

DATES: Effective September 3, 1985, the new closing date for FD&C Yellow No. 5 and its lakes will be November 5, 1985.

FOR FURTHER INFORMATION CONTACT: George H. Pauli, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 3, 1985 (50 FR 23294), FDA established the current closing date of September 3, 1985, for the provisional listing of FD&C Yellow No. 5 and of its lakes. The agency extended the closing date until September 3, 1985, to permit consideration of the scientific and policy aspects of the data concerning the safety of its provisionally listed uses. The agency had previously extended the closing date for FD&C Yellow No. 5 and its lakes on several occasions. For a full procedural history of the provisional listing of this color additive, see 48 FR 45760.

After reviewing and evaluating the data, the agency has concluded that FD&C Yellow No. 5 is safe for use in coloring cosmetics and externally applied drugs. Therefore, elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule that lists FD&C Yellow No. 5 for these uses. That rule also continues the provisional listing of the lakes of this additive. FDA is also publishing elsewhere in this issue of the **Federal Register** a proposed rule that would establish a new identity and a uniform set of specifications for all uses of FD&C Yellow No. 5 because the final rule that FDA is publishing establishes a new identity and new specifications for this color additive in 21 CFR 74.2705.

This brief postponement will provide sufficient time for receipt and evaluation of objections submitted in response to the final rule that lists FD&C Yellow No. 5 for use in coloring cosmetics and externally applied drugs.

Because of the shortness of time until the September 3, 1985, closing date, FDA concludes that notice and public procedure on these amendments are impracticable, and that good cause exists for issuing the postponement as a final rule. This final rule will permit the uninterrupted use of FD&C Yellow No. 5 and its lakes until November 5, 1985. Therefore, in accordance with 5 U.S.C. 553(d) (1) and (3), this regulation is being issued as a final rule and is being made effective on September 3, 1985.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the transitional provisions of the Color Additive Amendments of 1960 and under authority delegated to the

Commissioner of Food and Drugs, Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

1. The authority citation for 21 CFR Part 81 is revised to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 (21 U.S.C. 371, 376); Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

2. In § 81.1 *Provisional lists of color additives*, by revising the closing date for "FD&C Yellow No. 5" in paragraph (a) to read "November 5, 1985."

§ 81.27 [Amended]

3. In § 81.27 *Conditions of provisional listing*, by revising the closing date for "FD&C Yellow No. 5" in paragraph (d) to read "November 5, 1985."

Dated: August 23, 1985.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 85–21083 Filed 8–30–85; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 155

[DoD Directive 5220.6]

Defense Industrial Personnel Security Clearance Review Program

AGENCY: Office of Secretary of Defense, DoD.

ACTION: Final rule.

SUMMARY: This part is revised and reissued to (1) reflect organizational changes in the Department, (2) simplify the language contained in the existing rule, (3) incorporate the Equal Access to Justice (5 U.S.C. 504), standard in the section pertaining to reimbursement for lost earnings, and (4) establish the Adjudication Policy for security clearance determinations under this rule.

EFFECTIVE DATE: This rule was approved and signed by the Deputy Secretary of Defense, August 12, 1985, and is effective as of that date.

FOR FURTHER INFORMATION CONTACT: Mr. James P. Brown, Director, Directorate for Industrial Security Clearance Review, 4019 Wilson Blvd., Suite 101, Arlington, VA 22203, telephone (202) 696–4598.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense published the last edition of this directive in FR Doc. 76–13745 appearing in the **Federal Register** on May 12, 1976 (41 FR 19303). It is now revised and incorporates the changes described in the **SUMMARY** above. While publication of this notice of revision is not required under the Administrative Procedures Act, 5 U.S.C. 553(a), notice is provided voluntarily by the Department of Defense.

1. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

2. This rule is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. Although exempt under section 1.(a)(2) of E.O. 12291, the Department of Defense does not consider this rule to be a major rule under section 1.(b), E.O. 12291.

List of Subjects in 32 CFR Part 155

Administrative practice and procedure, Business and industry, Classified information, Security clearance.

Accordingly, 32 CFR is amended by revising Part 155, reading as follows:

PART 155—DEFENSE INDUSTRIAL PERSONNEL SECURITY CLEARANCE REVIEW PROGRAM

Sec.

Authority: 5 U.S.C. 504, E.O. 10865, 3 CFR, 1959–1963 COMP., p. 398.

§ 155.1 Purpose.

This part has been revised to update policy, the criteria, and procedures of the Defense Industrial Personnel Security Clearance Review Program under E.O. 10865.

§ 155.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense, the Military Departments, Organization of the Joint Chiefs of Staff, and the Defense Agencies (hereafter referred to collectively as "DoD Components").

(b) By mutual agreement also extends to other Federal agencies that include:

(1) Department of Agriculture.
(2) Department of Commerce.
(3) Department of Interior.
(4) Department of Justice.
(5) Department of Labor.
(6) Department of State.
(7) Department of Transportation.
(8) Department of Treasury.
(9) Environmental Protection Agency.
(10) Federal Emergency Management Agency.
(11) Federal Reserve System.
(12) General Accounting Office.
(13) General Services Administration.
(14) National Aeronautics and Space Administration.
(15) National Science Foundation.
(16) Small Business Administration.
(17) United States Arms Control and Disarmament Agency.
(18) United States Information Agency.

(c) Applies to cases in which the Defense Industrial Security Clearance Office (DISCO) cannot affirmatively determine that it is clearly consistent with the national interest to grant or continue a security clearance for access to classified information by persons employed by U.S. industry, or to U.S. citizens who are direct-hire employees or selectees for positions with NATO and who require Certificates of Security Clearance in connection with direct employment by agencies of NATO, or to Red Cross or United Service Organizations (USO) employees nominated for assignment with the Military Services overseas. These cases must be referred to the Directorate for Industrial Security Clearance Review (DISCR) for action under this Directive.

(d) Does not apply to cases in which a security clearance is withdrawn for administrative reasons with no finding of prejudice to a later determination as to whether the grant or continuance of applicant's security clearance would be clearly consistent with the national interest, or to cases in which an interim security clearance is withdrawn during an investigation.

(e) Provides a program which may be extended to other cases at the direction of the Deputy Under Secretary of Defense for Policy, or designee.

§ 155.3 Definitions.

Addiction. Psychological or physical dependency to the point of compulsive use.

Appeal Board. A panel designated by the General Counsel, DoD, or designee to make final determinations in cases which are appealed.

Applicant. A person in industry who requires a security clearance for access to classified information and any U.S. citizen who is a direct-hire employee or selectee for a position with NATO and who requires NATO Certificates of Security Clearance, security assurances

for access to U.S or foreign classified information, or Red Cross or USO personnel nominated for assignment with the Military Services overseas. The term applicant does not apply to those U.S. citizens who are seconded to NATO by U.S. Departments and Agencies or to U.S. citizens recruited through such agencies in response to a request from NATO.

Cannabis. The intoxicating products of the hemp plant, Cannabis Sativa, including but not limited to marijuana, hashish, and hashish oil.

Dangerous Drug. Any of the nonnarcotic drugs which are habit forming or have a potential for abuse because of their stimulant, depressant or hallucinogenic effect.

Experimental Abuse. Abuse occurring not more than a few times for reasons of curiosity, peer pressure, or other similar reasons.

Narcotic. Opium and opium derivatives or synthetic substitutes.

Occasional Abuse. Recurrent but infrequent abuse of drugs; no consistent pattern of drug abuse.

Physical Dependence. The adaptive alteration in the body produced by the prolonged use of a psychoactive substance, which results in withdrawal symptoms when the substance's use is stopped.

Psychological Dependency. The craving for the pleasurable mental or emotional effects of a psychoactive substance and the desire for this drug-induced state in preference to the normal state such that repeated use is seen as necessary for well-being.

Regular Abuse. Drug abuse on a frequent recurrent basis to the point of habituation.

§ 155.4 Policy.

It is the policy of the Department of Defense that all proceedings under this Directive shall be conducted in a fair and impartial manner, and that any determination authorizing a security clearance for access to classified information shall be based only upon a finding that to do so is clearly consistent with the national interest. Normally, a security clearance shall not be denied or revoked without full compliance with all applicable due process of law requirements, namely, (a) Notice to the individual of the specific reasons for the action; (b) Affording the individual an opportunity to respond; (c) Notifying the individual of the right to a hearing and the opportunity to cross-examine persons providing adverse information; and (d) Notice of appeal procedures.

§ 155.5 Responsibilities.

(a) *The Under Secretary of Defense for Policy (USD(P))*, or designee, shall issue investigative policies for this program, is designated the authority to issue changes to the adjudication policy, and shall be responsible for overall policy guidance and oversight.

(b) The *General Counsel, Department of Defense (GC, DoD), or designee*, shall:

(1) Administer the program established by this Part.

(2) Determine the organization and composition of the requisite staff and offices.

(3) Issue guidance and instructions, as needed, to fulfill these responsibilities.

(4) Designate attorneys to be Examiners assigned to DISCR to conduct hearings and to reach clearance determinations.

(5) Designate attorneys to be members of the Appeal Board.

(6) Issue invitational travel orders to persons to appear and testify who have provided oral or written statements adverse to the applicant relating to a controverted issue.

(7) Approve or disapprove claims for reimbursement for loss of earnings resulting from actions under this Part.

(c) The *Director, Directorate for Industrial Security Clearance Review*, under the direction of the General Counsel, DoD, or designee, shall:

(1) Manage the program established by this Part.

(2) Maintain all DISCR records.

(3) Issue guidance and instructions, as needed, to fulfill those responsibilities.

(d) *Heads of DoD Components* shall provide, from resources available to the designated DoD Component, financing, personnel and personnel spaces, office facilities, and related administrative support.

(e) *The Director, Defense Investigative Service* shall provide direction and supervision to DISCO in order to assure that cases qualifying under this part are referred promptly to DISCR as required, and that notices of determination by DISCR are acted upon by DISCO without delay.

§ 155.6 Procedures.

(a) Any applicant, as defined in § 155.3 of this part, shall be investigated in accordance with the standards set forth in DoD 5200.2–R [1] and DoD 5220.22–R.[1]

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

(b) An applicant is required to give, and to authorize others to give full, frank, and truthful answers to relevant questions needed by DISCR to reach a security clearance determination. The applicant may elect on constitutional or other grounds not to comply. However, refusal or failure to furnish or authorize the providing of relevant information needed by DISCR at any stage in the investigation or adjudicative process may preclude DISCR from reaching the finding required by § 155.6(c). In this case, any security clearance in effect shall be administratively suspended by the Director, DISCR, and any other processing action shall be discontinued. Resumption of case processing may be approved by the General Counsel, DoD, or designee, only upon showing of good cause by the applicant.

(c) Each personnel security determination must be a fair and impartial overall commonsense decision based upon a consideration of all available information, both favorable and unfavorable, and must be arrived at by applying the standard that the granting (or continuance) of security clearance under this Part may only be done upon and a finding that to do so is clearly consistent with the national interest.

(d) Each personnel security determination shall include consideration of the following factors:

(1) The nature and seriousness of the facts, circumstances or conduct;

(2) The circumstances surrounding the conduct;

(3) The frequency and recency of the conduct;

(4) The age of the individual;

(5) The motivation of the individual, or the extent to which the conduct was negligent, willful, voluntary, or undertaken with knowledge of the circumstances or consequences involved;

(6) The absence or presence of positive evidence of rehabilitation; and

(7) To the extent that it can be estimated, the probability that the facts, conduct or circumstances will or will not continue or recur in the future.

(e) The criteria for determining eligibility for clearance under the standard shall include, but not be limited to the following:

(1) Commission of any act of sabotage, espionage, treason, terrorism, anarchy, sedition, or attempts thereat or preparation therefor, or conspiring with or aiding or abetting another to commit or attempt to commit any such act.

(2) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist,

anarchist, terrorist, revolutionist, or with an espionage or other secret agent or similar representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the Government of the United States or to alter the form of Government of the United States by unconstitutional means.

(3) Advocacy or use of force or violence to overthrow the Government of the United States or to alter the form of Government of the United States by unconstitutional means.

(4) Knowing membership with the specific intent of furthering the aims of, or adherence to and active participation in any foreign or domestic organization, association, movement, group or conbination of persons (hereafter referred to as organizations) which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any State or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means.

(5) Unauthorized disclosure to any person of classified information, or of other information, disclosure of which is prohibited by Statute, Executive Order or Regulation.

(6) Performing or attempting to perform one's duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

(7) Disregard of public law, Statutes, Executive Orders or Regulations including violation of security regulations or practices.

(8) Criminal or dishonest conduct or acts of sexual preversion.

(9) Acts of omission or commission that indicate poor judgment, unrealiability or untrustworthiness.

(10) Any illness, including any mental condition, which, in the opinion of competent medical authority, may cause significant defect in judgment or reliability with due regard to the transient or continuing effect of the illness and the medical findings in such case.

(11) Vulnerability to coercion, influence, or pressure that may cause conduct contrary to the national interest. This may be (i) the presence of immediate family members or other persons to whom the applicant is bonded by affection or obligation in a nation (or areas under its domination) whose interests may be inimical to those of the United States, or (ii) any other circumstances that could cause the applicant to be vulnerable.

(12) Excessive indebtedness, recurring financial difficulties, or unexplained affluence.

(13) Habitual or episodic use of intoxicants to excess.

(14) Illegal or improper use, possession, transfer, sale or addiction to any controlled or psychoactive substance, narcotic, cannabis or other dangerous drug.

(15) Any knowing and willful falsification, cover-up, concealment, misrepresentation, or omission of a material fact from any written or oral statement, document, form or other representation or device used by the Depatment of Defense or any other Federal agency.

(16) Failing or refusing to answer or to authorize others to answer questions or provide information required by a congressional committee, court or agency in the course of an official inquiry whenever such answers or information concern relevant and material matters pertinent to an evaluation of the individual's trustworthiness, reliability, and judgment.

(f) The adjudication policy included in § 155.8 is binding in determining whether a person is eligible for access to classified information or assignment to sensitive duties.

(g) Whenever there is sufficient information to provide a reasonable basis for concluding that an applicant's continued access to classified information could endanger the national interest, the existing security clearance will be suspended by the Deputy Under Secretary of Defense for Policy (DUSD(P)), or designee, with the concurrence of the General Counsel, DoD (GC, DoD), or designee, pending a final determination under this Part. However, in those instances where the threat to the national interest is clearly direct and imminent, the Director, DISCR, and the Director, Defense Investigative Service, are authorized to take emergency measures to suspend an existing security clearance, after consultation with the Office of the DUSD(P) and the Office of the GC, DoD. Suspension action under this Part will not be taken for punitive purposes.

(h) Records compiled in the regular course of business or other physical evidence other than investigative reports, relating to a controverted issue, which, because they are classified, may not be inspected by the applicant, may be received and considered, provided the GC, DoD, has (1) made a preliminary determination that such evidence appears to be material, and (2) determines that failure to receive and consider such evidence would be substantially harmful to the national security.

(i) A written or oral statement adverse to the applicant on a controverted issue may be received and considered without affording an opportunity to cross-examine the person making the statement only in either of the following circumstances:

(1) If the Head of the Department, or designee, supplying the statement certifies that the person who furnished the information is a confidential informant who has been engaged in obtaining intelligence information for the Government and that disclosure of his or her identity would be substantially harmful to the national interest.

(2) If the GC, DoD has preliminarily determined that the statement concerned appears to be reliable and material, and has determined that failure to receive and consider such statement would be substantially harmful to the national security, and that the person who furnished the information cannot appear to testify (i) due to death, severe illness, or similar cause, in which case the identity of the person and the information to be considered shall be made available to the applicant, or (ii) due to some other cause determined by the Secretary of Defense, or when appropriate, by the agency head to be good and sufficient.

(j) Whenever evidence is received under § 155.6 (h) or (i), the applicant will be furnished with as comprehensive and detailed a summary of the information as the national security permits. The Examiner may make a determination either favorable or unfavorable to the applicant based on such evidence, but any final determination adverse to the applicant shall be made only by the Secretary of Defense or the agency head, based on a personal review of the case.

(k) Nothing contained in this Part shall limit or affect the responsibility and powers of the Secretary of Defense or the head of another department or agency to deny or revoke a security clearance when the security of the nation so requires. Such a determination shall be conclusive. This authority may be exercised only when it has been determined that the provisions of this Part cannot be invoked consistent with the national security.

§ 155.7 Additional procedural guidance.

(a) When the Defense Industrial Security Clearance Office (DISCO) cannot affirmatively find that it would

be clearly consistent with the national interest to grant or continue a security clearance the case shall be referred promptly to the Directorate for Industrial Security Clearance Review (DISCR) with a statement explaining the basis for referral.

(b) Upon referral, DISCR shall make a determination promptly whether to grant or continue clearance, to issue a Statement of Reasons as to why it is not clearly consistent with the national interest to do so, or to take whatever interim actions, such as (1) to direct further investigation, (2) to propound written interrogatories to the applicant or other persons with relevant information, (3) to require the applicant to undergo a medical evaluation by a DoD Psychiatric Consultant, or (4) to interview the applicant in order to reach a final determination.

(c) A security clearance shall not be denied or revoked unless the applicant has been provided with a written Statement of Reasons. The Statement of Reasons shall be as detailed and comprehensive as the national security permits. A letter of instructions with the Statement of Reasons also shall explain the applicant's right to have a hearing conducted and the consequences for failure to respond within the prescribed time frame.

(d) To be entitled to a hearing the applicant first must have submitted a written answer to the Statement of Reasons under oath or affirmation which shall admit or deny each listed allegation. A general denial or other similar answer is not sufficient. The answer must be specific and must be submitted to DISCR within 20 days of the receipt of the Statement of Reasons. Requests for a reasonable extension may be submitted to the Director, DISCR.

(e) When an applicant answers a Statement of Reasons as prescribed and a hearing is not requested by the applicant or by counsel (hereafter called Department Counsel) assigned to DISCR to present the case against the applicant, the determination will be made by the Examiner and will be based upon a review of the file of all relevant material which could be adduced at a hearing. The applicant will be given a reasonable time in which to submit documentary information in rebuttal, or to explain adverse information in the file.

(f) If the applicant does not answer the Statement of Reasons or fails to submit a responsive answer, the Director, DISCR, shall discontinue processing of the case, deny issuance of the requested clearance and shall direct DISCO to administratively suspend any clearance held by the applicant. However, should a review of applicant's answer to the Statement of Reasons indicate that all allegations are unfounded, the Director, DISCR, will take action as appropriate under the circumstances. The applicant shall be notified in writing by the Director, DISCR, if either of the above actions are taken.

(g) If the applicant answers the Statement of Reasons in writing and specifically requests a hearing, the applicant may appear in person with or without counsel or a personal representative. The applicant shall have a reasonable time to prepare his or her case. At the hearing, the applicant may present evidence on his or her behalf and, as a general rule, may cross-examine adverse witnesses, either orally or in writing. Hearings shall be conducted in the United States except for good cause based upon a petition to be filed by the applicant, or for NATO security clearance cases.

(h) The Examiner assigned to hear the case may require a prehearing conference, may rule on procedural issues to expedite the proceedings and shall conduct the proceedings in an orderly manner. Discovery by the applicant is limited to documentary material in DISCR files. Hearings will be closed to spectators except upon mutual agreement of applicant and Department Counsel.

(i) Parties to the proceeding shall serve each other with a copy of any pleading or communication at the time of submission to the Examiner hearing the case.

(j) Upon the failure of the applicant or applicant's counsel to appear or proceed in a timely and orderly fashion, the proceeding shall be discontinued and the case referred to the Director, DISCR, for appropriate action to discontinue all case processing, to administratively suspend any security clearance held by the applicant, and to deny any pending clearance request.

(k) Department Counsel is responsible for producing witnesses and information relied upon by DISCR to establish those facts alleged in the Statement of Reasons which have been controverted. The Statement of Reasons may be amended at the hearing by the Examiner, upon motion by the Department Counsel or the applicant to make it conform to the information or evidence presented. When such amendments are made, the Examiner may grant applicant's request for such additional time as the Examiner may deem appropriate to answer such amendments and to present evidence or information thereto.

(l) Applicants shall be notified in writing at least 15 days in advance of the time and place of the hearing. A continuance shall be granted only for good cause.

(m) The Examiner hearing the case shall notify the applicant and all witnesses testifying that 18 U.S.C. 1001 is applicable.

(n) Relevant and material oral, documentary, or other evidence may be received and technical rules of evidence shall be relaxed to permit the development of a full record. The Federal Rules of Evidence shall serve only as a guide.

(o) Records compiled in the regular course of business, or other physical evidence other than investigative reports, may be received and considered, subject to rebuttal without authenticating witnesses, provided that such information has been furnished by an investigative agency pursuant to its responsibilities in connection with assisting the Secretary of Defense, or the agency head concerned, to safeguard classified information within industry pursuant to Executive Order 10865.

(p) A transcript shall be made of the hearing. The applicant, and Department Counsel will be furnished one copy each of the transcript, less the exhibits, without cost.

(q) The Examiner hearing the case shall make written findings for or against the applicant with respect to each allegation in the Statement of Reasons and shall provide reasons in support of the findings normally within 30 days following the close of the hearing record. The Examiner shall make a determination under the standard of whether or not it is clearly consistent with the national interest to grant or continue the applicant's eligibility for access to classified information. The applicant and Department Counsel shall each be provided a copy of the determination. In cases when evidence is received under § 155.6 (h) and (i), of this Part, the Examiner's written determination may require deletions in the interest of national security.

(r) The applicant or Department Counsel may appeal the Examiner's determination by filing a written Notice of Appeal within 20 days after the date of the determination. The Notice of Appeal merely signifies the intention to file an appeal. The appeal itself must be in writing and must be filed within 60 days after the date of the Examiner's determination. A written reply may be filed by the other party in the case within 30 days of receipt of the copy of the written appeal.

(s) The written appeal must state the specific issues raised on appeal, must cite relevant portions of the case record supporting the issues, and must state the reasons why the determination should be reversed. Consideration of an appeal shall be limited to information in the case record and the issues raised in the written appeal and written reply thereto. The Appeal Board may take action with respect to matters of law raised by the parties to ensure that the Examiner's ruling(s) were not arbitrary or capricious. Factual findings shall not be disturbed on appeal if such findings are supported by credible evidence and are not contrary to law. No new testimony or evidence shall be considered.

(t) The Appeal Board shall determine whether or not the determination made by the Examiner should be affirmed or returned to the Examiner with instructions for further action.

(u) The written determination of the Appeal Board shall be issued promptly following the filing of briefs. The Appeal Board decision is final except in cases where evidence was received under § 155.6 (h) or (i) of this part, in which case a final adverse determination only may be made by the Secretary of Defense or agency head based upon a personal review of the case. The applicant and Department Counsel shall each be provided a copy of the Appeal Board determination. The applicant's copy may require deletions in the interest of national security when evidence was received under § 155.6 (h) or (i) of this part.

(v) In cases where a security clearance is subsequently granted by DISCR after suspension, denial or revocation, an applicant may petition for reimbursement of loss of earnings resulting directly from the suspension, revocation, or denial of clearance. The petition for reimbursement must include as an attachment the written determination of the Examiner or the Appeal Board. The General Counsel, DoD (GC, DoD), or designee, will review the petition and determine (1) whether, in fairness, the Petitioner is to be reimbursed, and (2) the monetary amount of reimbursement.

(w) Claims for reimbursement must be filed with the GC, DoD, or designee, within one year after the date the claim arises. Reimbursement is not authorized in cases where the GC, DoD, or designee, finds that the Department of Defense was justified in taking the initial action to suspend, deny or revoke the security clearance.

(x) The amount of reimbursement shall not exceed the difference between the earnings of the applicant at the time of the suspension, revocation, or denial, and the interim earnings, subject to reasonable efforts on the part of the applicant to mitigate any loss of earnings. No reimbursement shall be allowed for any period of undue delay resulting from the applicant's acts or failure to act. Reimbursement is not authorized for loss of merit raises and general increases, loss of employment opportunities, counsel's fees and other costs relating to the industrial security clearance proceeding.

(y) Approval of claims by the Department of Defense will be forwarded to the agency concerned for payment. Any payment made in response to a claim for reimbursement shall be in full satisfaction of any further claim against the United States or Federal agency, or any of its officers or employees.

(z) Reinstatement of a clearance that has been administratively suspended and resumption of case processing after failure or refusal of the applicant or attorney to provide requested information, or to proceed in a timely and orderly manner, or to respond to a Statement of Reasons, only shall be made upon request submitted by the applicant and upon a showing of good cause. Requests should be submitted to the Director, DISCR. All such requests only can be approved by the GC, DoD, or designee.

§ 155.8 Adjudication policy.

(a) *Financial Irresponsibility*—The basis is failure to meet just and avoidable financial obligations voluntarily incurred.

(1) The factors which may be considered in determining whether to deny or revoke a clearance are:

(i) History of bad debts and unmanageable indebtedness.

(ii) Recent bankruptcy with continuing financial problems.

(iii) Indebtedness aggravated or caused by gambling, alcohol, drug abuse, or mental or emotional defects.

(iv) A history or pattern of writing checks not covered by sufficient funds.

(v) Unfavorable judgments, liens, or repossessions.

(vi) Deceit or deception, embezzlement, or change of address without advising creditors.

(vii) Applicant's indifference to financial obligations or a stated intention not to meet these obligations in the future.

(viii) Financial mismanagement or irresponsible expenditures that exceed income or other assets.

(2) The Mitigating Factors are:

(i) Systematic efforts to satisfy creditors.

(ii) Favorable change in financial habits.

(iii) Stable employment record and favorable references.

(iv) Circumstances beyond the individual's control contributing to indebtedness; e.g., major illness, debilitation, decrease or cutoff of income, and indebtedness due to court order.

(v) Business-related bankruptcy.

(b) *Criminal Conduct*—The basis is any criminal violation of a federal, state, or local law.

When it is determined that an applicant for a security clearance, or a person holding a clearance, has been convicted of, or admits to conduct which would constitute, a felony under federal or state law, the clearance of such person shall be denied or revoked unless it is determined by the Under Secretary of Defense for Policy, with the concurrence of the General Counsel of the Department of Defense, that there are compelling national security reasons to grant or continue such clearance. All other types of involvement in criminal activities shall be evaluated in accordance with the criteria set forth below.

(1) The factors which may be considered in determining whether to deny or revoke a clearance are:

(i) Criminal conduct:

(A) An established pattern of criminal conduct.

(B) Failure to complete a rehabilitation program resulting from disposition of a criminal proceeding.

(C) Criminal conduct that it is so recent in time as to preclude a determination that recurrence is unlikely.

(D) Close and continuing association with persons known to be involved in criminal activities.

(E) Criminal conduct indicative of a serious mental aberration, lack of remorse, or insufficient probability of rehabilitative success.

(F) Disposition.

(*1*) Conviction.

(*2*) Disposition on a legal issue not going to the merits of the crime.

(*3*) Arrest or indictment pending trial.

(ii) *Arrest Record.* In evaluating an arrest record, information that indicates that the individual was acquitted, that the charges were dropped or the subject of a stet or nolle prosequi, that the record was expunged, or that the case was dismissed due to error not going to the merits does not necessarily negate the security significance of the arrest. Personnel security determinations are to be made on the basis of all available information concerning a person's

conduct and actions rather than the legal outcome of a criminal proceeding.

(2) The Mitigating Factors (where there has been no conviction or admission) are:

(i) Immaturity of the individual at the time of the offense.

(ii) Extenuating circumstances of the offense.

(iii) Circumstances indicating that the actual offense was less serious than the offense charged.

(iv) Isolated nature of the conduct.

(v) Conduct occurring only in the distant past (such as, more than 5 years in the past) in the absence of subsequent criminal conduct.

(vi) Transitory conditions contributing to the conduct (such as, divorce action, death in the family) in the absence of subsequent criminal conduct.

(c) *Sexual Misconduct*—The basis is sexual behavior that makes applicable the guidance for criminal misconduct or mental or emotional illness, or which indicates that the applicant may be subjected to coercion, pressure, or influence to act contrary to the interests of the United States or which suggests recklessness, irresponsibility, or poor judgment.

(1) The factors which may be considered in determining whether to deny or revoke a clearance are:

(i) The misconduct has been recent or frequent.

(ii) The applicant indicates explicitly or implicitly an intention to repeat the misconduct.

(iii) The applicant appears to be susceptible to blackmail.

(iv) The misconduct involves:

(A) Open or public behavior;

(B) A person under the age of 18;

(C) Inducement or coercion by force or intimidation of another person;

(D) Prostitution;

(E) Sexual harassment.

(2) The Mitigating Factors are:

(i) Sexual misconduct on a limited number of occasions during or preceding adolescence, with no evidence of subsequent misconduct, and clear indication that the individual has no intention of participating in sexual misconduct in the future.

(ii) Activity occurred more than 3 years ago.

(iii) Subject does not appear to be susceptible to blackmail.

(iv) The applicant was a minor involved in an incestuous relationship.

(d) *Mental or Emotional Illness*—The basis is an abnormal mental condition that may cause a significant defect in the judgment or reliability of the individual concerned.

(1) The factors which may be considered in determining whether to deny or revoke a clearance are:

(i) Conduct reflecting abnormal behavior indicative of mental illness even though there is no confirming medical history.

(ii) Refusal by the individual concerned to furnish medical information or to allow medical information to be obtained for the purpose of determining the significance of bizarre behavior or conduct.

(iii) Documented spouse or child abuse.

(iv) Diagnosis by competent medical authority that an earlier incapacitating mental illness is of a type that has a high incidence of recurrence even though the individual concerned currently manifests no symptoms of mental or emotional illness.

(2) The Mitigating Factors are:

(i) No evidence of a psychotic condition for the past 20 years, a serious or disabling neurotic disorder for the past 10 years, or a serious character or personality disorder for the past 10 years.

(ii) Medical records and physician interview reflect that the person's illness or condition has not caused a significant defect in judgment or reliability.

(iii) The factor(s) causing the mental condition have been rectified.

(iv) Testimony of medical authority that continued maintenance of prescribed medication is likely to preclude recurrence of a condition effecting a significant defect in judgment or reliability.

(e) *Hostage and Foreign Connections*—The basis of an applicant who has immediate family members or other persons to whom he or she is bonded by affection or obligation residing in a communist country or other countries currently hostile to the United States. These countries are of two categories: *Category I.* Countries which, based on current assessment of the U.S. Intelligence Community, possess an intelligence organization with a demonstrated capability of recruiting and exploiting U.S. personnel for intelligence purposes, and *Category II.* Countries which, although having national intelligence objectives inimical to the United States do not have the capability of exploiting U.S. personnel for intelligence purposes or have not undertaken to target U.S. personnel for such purposes.

(1) The factors which may be considered in determining whether to deny or revoke a clearance are:

(i) Residence of a member of immediate family or a person to whom the individual is bound by affection or obligation in a Category I country.

(ii) Travel, correspondence, or financial aid to Category I or Category II countries on a regular basis without satisfactory explanation.

(iii) Dating or cohabiting with a foreign national from a Category I country.

(2) The Mitigating Factors are:

(i) Individual has a member of his or her immediate family or person to whom they are bound by affection or obligation in a Category II country.

(ii) Individual's personal or financial interest in the U.S. appears sufficient to counter any potential pressure that might be brought to bear, such as, home owner with strong civic and community ties.

(f) *Subversive Activity*—The basis is unlawfully advocating or practicing the commission of acts of force or violence to either prevent others from exercising their rights under the Constitution or laws of the United States, or to overthrow or alter the form of Government of the United States by unconstitutional means. Knowing membership with the specific intent of furthering the aims of, or adherence to and active participation in, any foreign or domestic organization, association, movement, group, or combination of persons that support the above-cited activities.

(1) The factors which may be considered in determining whether to deny or revoke a clearance are:

(i) Organization is one which has been characterized by the Department of Justice as one which meets the above-cited criteria.

(ii) Participation in acts that involve force or violence to prevent others from exercising their rights under the Constitution or to overthrow or alter the form of government of the United States.

(iii) Monetary contributions, service, or other support of the organization with the intent of furthering the unlawful objectives of the organization.

(iv) Deliberate misrepresentation of association with the organization.

(v) Evidence of continuing sympathy with the unlawful aims and objectives of the organization.

(vi) Holding a position of major doctrinal or managerial influence in the organization.

(2) The Mitigating Factors are:

(i) Lack of understanding of the unlawful aims or objectives of the organization.

(ii) Staleness of affiliation or activity.

(iii) Temporary affiliation out of curiosity or academic interest.

(iv) Sympathy or support limited to the stated, lawful objectives of the organization.

(v) Immaturity at the time of conduct.

(g) *Alcohol Abuse*—The basis is the consumption of alcohol on an episodic or recurring basis that results in impairment of the individual's ability to perform assigned duties or to adequately safeguard classified information.

(1) The factors which may be considered in determining whether to deny or revoke a clearance are:

(i) Use of alcohol which results in behavior that adversely affects a person's judgment, reliability or discretion.

(ii) Repeated alcohol-related incidents.

(iii) Alcohol consumption resulting in the deterioration of the individual's physical health, as determined by competent medical authority.

(2) The Mitigating Factors are:

(i) Successfully undergoing recognized treatment program or completion of such a program.

(ii) Individual has discontinued alcohol abuse for at least 2 years.

(h) *Drug Abuse*—The basis is the illegal or improper use of any psychoactive substance to include any narcotic, dangerous drug or cannabis.

(1) The factors which may be considered in determining whether to deny or revoke a clearance are:

(i) Experimental abuse of any narcotic or dangerous drug within the last 3 years.

(ii) Occasional abuse of any narcotic or dangerous drug within the last 3 years.

(iii) Regular abuse or addition to any narcotic or dangerous drug within the last 5 years.

(iv) Regular abuse of cannabis within the last 12 months.

(v) Illegal trafficking, cultivation, processing, manufacture, sale, distribution or purchase of any narcotic, dangerous drug, or cannabis whether or not the individual was arrested for such activity.

(vi) Information that the individual intends to continue to use (regardless of frequency) any narcotic, dangerous drug, or cannabis.

(2) The Mitigating Factors are:

(i) Individual has abstained from the illegal or improper use of any narcotic or dangerous drug for at least 3 years and:

(A) Appears to have a stable lifestyle, including a satisfactory employment record; and

(B) States that he or she will not use narcotics or dangerous drugs in the future.

(ii) Experimental abuse of narcotics or dangerous drugs occurred more than 12 months ago, there is no subsequent indication of drug abuse, and the individual has stated intention not to abuse such drugs in the future.

(iii) Abuse of cannabis occurred more than 12 months ago and the individual has indicated intention not to use or possess cannabis in the future.

(iv) Experimental or occasional abuse of cannabis within the past 12 months provided the individual has:

(A) Not evidenced any indications of physical or psychological dependence;

(B) Has had not more than one drug-related arrest within the past 2 years; and

(C) Has a stable lifestyle, including a satisfactory employment record.

(i) *Security Violations*—The basis is failure to comply with policies and procedures established for the purpose of safeguarding classified information.

(1) The factors which may be considered in determining whether to deny or revoke a clearance are:

(i) Intentional disclosure of classified information to unauthorized persons.

(ii) Deliberate disregard of security regulations which results in the compromise of classified information.

(iii) Recent deliberate violations of security regulations, such as, taking classified information home or carrying classified while in a travel status without proper authorization.

(iv) Nondeliberate security violations which indicate a pattern of negligence or carelessness.

(2) The Mitigating Factors are:

(i) Violation of security procedures was caused or contributed to by an improper or inadequate security briefing.

(ii) Individual is personally responsible for a large volume of classified information and the violation was administrative in nature, such as inaccurate entry on document log or certificate of destruction.

Dated: August 28, 1985.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2891-1]

Approval and Promulgation of Implementation Plans; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Today's notice takes final action to incorporate into the California State Implementation Plan (SIP) two items related to a motor vehicle inspection and maintenance (I/M) program in the Fresno County portion of the San Joaquin Valley Air Basin. The first item is a request by Fresno County for the State to implement an I/M program and the second item is an I/M implementation schedule for Fresno. Today's approval of these two items means that the 1979 ozone (O_3) and carbon monoxide (CO) plans for Fresno County are no longer disapproved and that there is no longer a prohibition on the construction of major new or modified stationary sources of hydrocarbons (HC) and CO in Fresno County.

Today's notice also removes a condition of approval on the 1979 O_3 plan for Ventura County and on the 1979 O_3 and CO plans for the San Diego, San Francisco Bay Area and South Coast Air Basins, and the Sacramento Metropolitan Area. The fulfilled condition concerns implementation of an I/M program according to schedule.

DATE: This action is effective on September 4, 1985.

ADDRESSES: A copy of the revision approved in this notice is available at the following locations and EPA's Region 9 office in San Francisco:

The Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C.

Public Information Reference Unit, Environmental Protection Agency, 401 "M" Street, SW., Washington, D.C. 20460

California Air Resources Board, State Implementation Plan Section, 1131 "S" Street, Sacramento, CA 95812

Fresno County Air Pollution Control District, 1221 Fulton Mall, Fresno, CA 93721

FOR FURTHER INFORMATION CONTACT: John Ong, Air Programs Branch (A-2-3), Air Management Division, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, (415) 974-7635, FTS: 454-7635.

SUPPLEMENTARY INFORMATION:

Background

The 1977 Clean Air Act Amendments (CAA) required states to submit to EPA State Implementation Plan (SIP) revisions by January 1, 1979 for all areas designated nonattainment under section 107 of the CAA. These SIP revisions or nonattainment area plans (NAPs) were to insure attainment of the National Ambient Air Quality Standards (NAAQS) by December 31, 1982. For areas that demonstrated they could not attain the ozone (O_3) or carbon monoxide (CO) standards by the 1982 deadline, even with the implementation of all reasonably available control measures, section 172(a)(2) of the CAA allowed EPA to extend the attainment deadline to December 31, 1987.

States that received an extension of the 1982 O_3 or CO deadline were required by section 172(b)(11)(B) to submit specific measures in the 1979 NAP. One such measure is a schedule to implement a vehicle emission control inspection and maintenance (I/M) program. Other I/M measures required by section 172(b) include evidence of legal authority to implement and enforce the program, commitments to implement, and commitments to achieve a minimum level of program effectiveness. Six urban areas in California requested and received extensions for attaining the O_3 and/or CO standards beyond December 31, 1982: the Fresno County portion of the San Joaquin Valley Air Basin, the Sacramento Metropolitan Area portion of the Sacramento Valley Air Basin, the San Diego Air Basin, the San Francisco Bay Area Air Basin, the South Coast Air Basin, and the Ventura County portion of the South Central Coast Air Basin.

On July 2, 1979, pursuant to CAA section 110(a)(2)(i), an automatic prohibition on the construction of major new or modified stationary sources of HC and CO became effective in this six areas because the NAPs for these areas had not been fully or conditionally approved. EPA could not approve the NAPs for the six areas because the NAPs lacked evidence of legal authority to implement and enforce an I/M program, and because the NAPs failed to include a schedule to implement an I/M program.

On September 17, 1982 the California Air Resources Board (ARB) submitted to EPA a revision to the California SIP which included evidence of legal authority to implement an I/M program and an implementation schedule. On February 3, 1983 [48 FR 5074] EPA proposed to take action on the schedule to implement. On July 26, 1983 the ARB submitted another I/M revision to the SIP which updated the schedule to implement and included locally adopted resolutions requesting the State to implement the I/M program in five of the required six urban areas. The Fresno County APCD did not request implementation in the July 26, 1983 submittal.

On November 25, 1983 [48 FR 53115] EPA took final action to conditionally approve the 1979 O_3 and CO NAPs for the Sacramento Nonattainment Area, the San Diego Air Basin, the San Francisco Bay Area Air Basin, and the South Coast Air Basin. The notice also conditionally approved the O_3 NAP for the Ventura County Nonattainment Area. All of the above NAPs were approved on the condition that the California motor vehicle I/M program would be implemented according to the schedule submitted on July 26, 1983. The November 25, 1983 notice had the effect of removing the construction ban in the above five areas. The November 25 notice did not take final action on the O_3 and CO NAPs for Fresno since Fresno had not yet required the State to implement an I/M program in Fresno County. Both the February 3, 1983 proposed notice and the November 25, 1983 final notice and their respective Technical Support Documents (TSD's) should be used as references in reviewing today's action.

EPA Evaluation

On June 11, 1984 the California ARB submitted to EPA for incorporation into the California SIP evidence of Fresno's request that the State implement an I/M program. A schedule of implementation was also submitted. EPA has reviewed California's June 11, 1984 submittal and has determined that it should be approved. The request to implement needs to be incorporated into the SIP in order to make this local commitment to the I/M program federally enforceable. The request to implement is approvable as it completes the process of providing legal authority to operate an I/M program in Fresno County. The schedule of implementation, which lists October, 1984 as the start-up date for the I/M program, is approvable because the program has in fact commenced.

EPA's approval of the June 11, 1984 submittal removes the major deficiencies of the 1979 O_3 and CO NAPs for Fresno County. Therefore, today's notice takes final action to approve the 1979 O_3 and CO plans for Fresno County. Approval of these plans lifts the ban on the construction of major new or modified stationary sources of HC and CO in Fresno County which has been in effect since July 2, 1979.

EPA also is removing the condition of approval on the 1979 O_3 NAP for Ventura County and on the 1979 O_3 and CO NAPs for the San Diego, San Francisco Bay Area, and South Coast Air Basins and the Sacramento Metropolitan Area. This condition requires implementation of the I/M program according to the schedule submitted on July 26, 1983. The start-up date listed on the July 26 schedule is March, 1984. This condition is no longer germane to attainment of the standards since the I/M program is underway in all of the above five urban areas.

EPA Action

Based on EPA's review of the SIP revision submitted on June 11, 1984 and the status of the vehicle I/M program in California, EPA takes final action to:

1. Incorporate the following revisions submitted on June 11, 1984 into the California SIP under Section 110 of the CAA: (a) California ARB Executive Order G–125–46; (b) the schedule to implement I/M in Fresno County and; (c) the request by Fresno County that the State of California implement an I/M program in Fresno County.

2. Approve, as meeting the Part D requirements of the CAA, the schedule to implement an I/M program in Fresno and the request by Fresno County that the State of California implement an I/M program in Fresno County.

3. Approve the 1979 nonattainment area plans for the Fresno County portion of the San Joaquin Valley Air Basin for O_3 and CO. This action removes the prohibition on the construction of major new or modified stationary sources of HC and CO in Fresno County.

4. Remove the condition of approval on the following plans requiring the State to implement an I/M program according to the revised schedule submitted on July 26, 1983: the Sacramento Metropolitan Area portion of the Sacramento Valley Air Basin, the San Diego Air Basin, the San Francisco Bay Area Air Basin and the South Coast Air Basin for O_3 and CO, and the Ventura County portion of the South Central Coast Air Basin for O_3.

Regulatory Process

EPA has determined that good cause exists (see Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B)) to take final action without providing prior notice and opportunity to comment. Such prior notice and opportunity to comment is unnecessary because an I/M program is already in operation in the required six areas in California.

Also, since the O_3 and CO SIPs for the six I/M areas in California are now

approvable and continued application of the construction ban in those areas is now unnecessary, EPA finds that good cause exists for making this action effective immediately (see Administrative Procedure Act, 5 U.S.C. 553(d)(3)). Therefore, this action is effective on the date of publication of this notice.

Under section 307(b)(1) of the act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 4, 1985. This action may not be challenged later in proceedings to enforce its requirements. (see 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. [See 46 FR 8709].

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Carbon monoxide, Hydrocarbons, Incorporation by reference.

Dated: August 23, 1985.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

Subpart F of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.220 paragraph (c) is amended by adding paragraph (161) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(161) Revisions to the ozone and carbon monoxide nonattainment area plans for the Fresno County portion of the San Joaquin Valley Air Basin were submitted by the Governor on June 11, 1984.

(i) Incorporation by reference.

(A) State of California Air Resources Board Executive Order G–125–46 adopted May 11, 1984.

(B) Letters from the County of Fresno to the Bureau of Automotive Repair dated March 14, 1984 and February 14, 1984 requesting implementation of an I/M program in Fresno County.

(C) County of Fresno Resolution File Number 18–13 adopted February 14, 1984.

(D) Schedule to implement I/M in Fresno County, adopted on February 14, 1984.

* * * * *

(ii) Additional Information. The State submitted no additional information.

3. Section 52.223 paragraph (b) is amended by revising paragraph (5)(viii) to read as follows:

§ 52.223 Approval status.

* * * * *

(b) * * *

(5) * * *

(viii) Fresno County for O_3, CO, and TSP.

* * * * *

4. Section 52.232 paragraph (a) is amended by removing and reserving paragraph (14) as follows:

§ 52.232 Part D conditional approvals.

(a) * * *

(14) [Reserved].

* * * * *

5. Section 52.237 paragraph (a) is amended by removing and reserving paragraph (3) to read as follows:

§ 52.237 Part D disapproval.

(a) * * *

(3) [Reserved].

* * * * *

[FR Doc. 85–21030 Filed 9–3–85; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 271

[SW–6–FRL–2891–3]

Texas; Notice of State Legislative Changes to the State's Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Final Authorization for the State's Hazardous Waste Management Program.

SUMMARY: Texas received Final Authorization under the Resource Conservation and Recovery Act (RCRA) on December 12, 1984. The Sixty-Ninth Legislature for the State of Texas recently enacted legislation reorganizing the Texas Department of Water Resources, responsible for the Industrial Waste Management Program, renaming it the Texas Water Commission and, in addition, transferring to the Texas Water Commission from the Texas Department of Health the administration of the Municipal Hazardous Waste Program. The Environmental Protection Agency (EPA) is providing notice of these impending changes which will become effective under State law on September 1, 1985, and the EPA's and the State's plan regarding compliance with 40 CFR Part 271.21 (b) and (c).

EFFECTIVE DATE: September 4, 1985.

ADDRESSES: Copies of the State legislation and a draft of the State's program revision are available for public inspection from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, at the following locations:

U.S. Environmental Protection Agency, Library, 28th Floor, Interfirst Two Building, 1201 Elm Street, Dallas, Texas 75270, Telephone (214) 767–7341

Texas Water Commission, Library, Fifth Floor, Stephen F. Austin State Office Building, 1700 North Congress, Austin, Texas 78711, Telephone (512) 463–7834

U.S. EPA Headquarters, Library (PM211A), 401 M Street SW., Washington, D.C. 20460, Telephone: (202) 382–5926.

FOR FURTHER INFORMATION CONTACT: H.J. Parr, State Programs Section 6AW–HP), Hazardous Materials Branch, U.S. Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2645.

SUPPLEMENTARY INFORMATION: On December 26, 1984, the State of Texas received authorization pursuant to section 3006 of RCRA to operate the State's hazardous waste program in lieu of the federal program in Texas (49 FR 48300). On March 26, 1985, EPA published a notice of clarification (50 FR 11658) stating that the state was not authorized to implement the requirements and prohibitions of the Hazardous and Solid Waste Amendments of 1984 (HSWA) (Pub. L. 98–616, November 8, 1984).

The application submitted by the State for Final Authorization described a program which is to be jointly operated by two state agencies: The Texas Department of Water Resources (TDWR), having jurisdiction over Industrial Waste Management, and the Texas Department of Health (TDH), having jurisdiction over Municipal Hazardous Waste Management.

The Sixty-Ninth Texas legislature enacted legislation (Senate Bill 249) transferring jurisdiction for all municipal hazardous waste management from the Texas Department of Health to the Texas Water Commission. This transfer is effective September 1, 1985. In addition, Senate Bill 249 provides organizational changes to the TDWR

and remains the agency the Texas Water Commission (TWC).

All duties, authorities and responsibilities held by the TDWR continue to be held by the TWC. Section 10.004(f) of Senate Bill 249 provides that the reorganization of the TDWR into the TWC does not affect or impair any act done, bonds authorized or issued, or penalty that has accrued or that exists under the authority of the TDWR as it existed before the effective date of Senate Bill 249, and those bonds, obligations, rights, permits, licenses, standards, rules, and criteria remain in effect until such time as they are paid, recalled, changed, altered, renewed, amended, cancelled, revoked, repealed, or abolished under the Water Code or other state laws.

It is anticipated that the TWC will be making name change revisions in its Industrial Waste Program shortly and submitting these revisions to EPA. At a later date, there will also be some substantive revisions necessitated by Senate Bill 249, House Bill 1867, and House Bill 2358. The revisions of the industrial waste program made as a result of the reorganization and renaming of the TDWR do not fall within the ambit of 40 CFR 271.21(c). This section states that whenever there is a transfer of all or part of a program from an approved state agency to another state agency, the new agency is not authorized to administer the program until approved by EPA under 40 CFR § 271.21(b). EPA does not view the reorganization of the TDWR into the TWC with the attendant savings clause of section 10.004(f) of Senate Bill 249 as a transfer within the purview of 40 CFR 271.21(c). Thus, the authorized industrial hazardous waste program will continue in the State of Texas without interruption.

There is no provision, however, in Senate Bill 249 continuing in effect the Municipal Hazardous Waste program after September 1, 1985, the statute is quite clear that, after September 1, 1985, authority for the regulation of Municipal Hazardous Waste lies with the TWC and all TDH Municipal Hazardous Waste authority ceases. Therefore, EPA does consider the transfer of the Municipal Hazardous Waste program from the TDH to the TWC to fall within the meaning of 40 CFR 271.21(c).

Since the TDH authority ceases and the TWC authority for municipal hazardous waste is not authorized until approved by EPA, there will be a lapse in authority to operate a RCRA program for municipal hazardous waste in Texas until the TWC is authorized by EPA for this program. In order to minimize any significant impact this lapse of authority would have on the program, EPA and the State have committed to an aggressive plan of action to keep the lapse time as short as possible.

The Governor of Texas, in a letter received by EPA on August 22, 1985, has affirmed the State's intention to move quickly in amending the authorized State Program to reflect the transfer of responsibilities. The State has made these further commitments: The TWC will adopt, on an emergency basis, Municipal Hazardous Waste Regulations on September 3, 1985 (the first work day after the transfer goes into effect.) The TWC will submit an official request for a revision to the State's authorized program which reflects the transfer of authority from the TDH to the TWC. Such revision will include amendments to the Memorandum of Agreement, the Attorney General's Statement, the Program Description and the municipal hazardous waste management regulations and will be submitted within the first two weeks of September, 1985.

On August 19, 1985, the TDWR, as predecessor agency to the TWC, submitted, a draft of proposed changes to the State's program reflecting the revision of the program to include municipal hazardous waste. EPA has reviewed this draft revision and is satisfied that, if adopted substantially as submitted, the revision would be approvable.

Upon receipt of the official submittal, EPA will then expedite the review and approval process. If the submittal is approvable, EPA intends to publish an Interim Final Rule as close to September 30, 1985, as possible, effective upon publication, approving the State's authorization. Such Interim Rule would be published as soon as practicable to attempt to restrict the lapse time. It would provide for a subsequent comment period and opportunity for hearing.

If the revision submitted by the State is not substantially the same as the draft and is not approvable under 40 CFR 271.21, EPA will institute proceedings under 40 CFR 271.23 to withdraw authorization of the State's program.

We wish to clarify how we anticipate that issues related to the Municipal Hazardous Waste Program will be handled during the interim between September 1, 1985, and the authorization of the TWC for the Municipal Hazardous Waste Program. EPA, pursuant to authority under section 7003 of RCRA, may pursue any action concerning municipal hazardous waste which is causing an imminent and substantial endangerment to the public health or the environment. The TWC, of course, will be able to take municipal enforcement actions under State law (to be effective September 3, 1985). In addition, the TWC has agreed to not issue permits to Municipal Hazardous Waste Management Facilities during this interim period. In this way, questions regarding the validity of such permits will be avoided. The interim period is expected to be of such short duration that the suspension of the issuance of permits to these facilities should not be burdensome to the regulated community. Other work on the processing of these permits, up to but not including the issuance of draft permits, will continue.

EPA and the State of Texas are committed to maintaining the smooth operation of the State's Hazardous Waste Management Program through this revision process. EPA feels that restricting the gap in the authorized program to the shortest period of time is in the best interest of EPA, the State, the regulated community and the general public.

List of Subjects in 40 CFR Part 271

Administrative practice and procedures, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and record keeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority to sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 2912(a), 6926, 6974(b) and EPA delegations 8-7.

Dated: August 23, 1985.

Dick Whittington, P.E.,

Regional Administrator.

[FR Doc. 85-21029 Filed 9-3-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-534; RM-4635]

FM Broadcast Station in Aiea, HI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action allots Class C Channel 300 to Aiea, Hawaii, in response to a petition filed by Starlight Broadcasting Corporation.

EFFECTIVE DATE: September 26, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the Matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Aiea, Hawaii), MM Docket 84-534, RM-4635.

Adopted: August 13, 1985.
Released: August 20, 1985.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rulemaking*, 49 FR 24411, published June 13, 1984, in response to a petition filed by Starlight Broadcasting Corporation ("petitioner"), proposing the allotment of Channel 300 to Aiea, Hawaii, as its first FM service. Supporting comments were filed by the petitioner, restating its interest in the channel.

2. We believe that the public interest would be served by the provision of a first FM allotment to Aiea. Channel 300 can be allotted in compliance with the minimum distance separation requirements of § 73.207 of the Rules.

PART 73—[AMENDED]

§ 73.202 [Amended]

3. Accordingly, it is ordered, that effective September 26, 1985, the FM Table of Allotments, § 73.202(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Aiea, HI	300

4. The window period for filing applications will open September, 27, 1985, and close on October 26, 1985.

5. It is further ordered, that this proceeding is terminated.

6. For further information concerning the above, contact: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles G. Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-21035 Filed 9-3-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-721; RM-4731]

FM Broadcast Station in Barstow, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein allots Channel 240A to Barstow, California, as that community's second local FM service, in response to an expression of interest filed on behalf of Mrs. Margaret Tucker.

EFFECTIVE DATE: September 30, 1985.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b) Table of Allotments FM Broadcast Stations (Barstow, California), MM Docket No. 84-721, RM-4731.

Adopted: August 13, 1985.
Released: August 22, 1985.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 49 FR 30759, published August 1, 1984, issued in response to a petition filed by D.L. Developments ("petitioner"), requesting the allotment of Channel 240A to Barstow, California, as that community's second local FM service.

2. Our records reveal that the petitioner failed to file comments in support of the proposal. However, supporting comments were filed on behalf of Mrs. Margaret Tucker, stating her intention to apply for the channel. On the basis of that expression of interest, we shall allot Channel 240A to Barstow.

3. As indicated in the *Notice*, Channel 240A can be allotted to Barstow in conformity with the applicable minimum distance separation requirements of § 73.207 of the Commission's Rules. Additionally, since the proposed allotment is within 320 kilometers (199 miles) of the common U.S.-Mexican border, the concurrence of the Mexican Government was obtained.

PART 73—[AMENDED]

§ 73.202 [Amended]

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g), and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective September 30, 1985, the FM Table of Allotments, § 73.202(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

City	Channel No.
Barstow, CA	232A and 240A

5. It is further ordered, that this proceeding is terminated.

6. The window for filing applications on Channel 240A at Barstow will open on October 1, 1985 and close on October 30, 1985.

7. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-21033 Filed 9-3-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[CC Docket No. 81-343]

CC Facilities To Meet Pacific Telecommunications Needs During the Period 1981-1995

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Adopts long-term facilities planning for the Pacific Ocean Region for the 1987-1995 time period. The Commission finds that a fiber-optic transpacific cable as early as 1988 is in the public interest. Further, the Commission adopts a loading

methodology for the 1987–1991 time period allowing AT&T 8% flexibility in 1988 and 4% per year for the years 1989–1991.

EFFECTIVE DATE: September 4, 1985.

ADDRESS: Federal Communication, Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steven Goldman, International Policy Division, Common Carrier Bureau, Federal, Communications Commission, Washington, DC 20554, (202) 632–4047.

Second Report and Order

In the matter of inquiry into the policies to be followed in the authorization of common carrier facilities to meet pacific Telecommunications needs during the period 1981–1995; CC Docket No. 81–343.

Adopted: August 7, 1985.

Released: August 22, 1985.

By the Commission.

Table of Contents

I. Introduction

1. This Report and Order concludes the second phase (Phase II) of the major facilities planning process in the Pacific Ocean Region (POR). This second phase was initiated on November 21, 1983 with a Notice of Inquiry (NOI).[1] This was followed by a Further Notice of Proposed Rulemaking (Further Notice) released on March 28, 1985.[2] The second phase of this proceeding focuses on facilities needs in the POR during the 1987–1995 time period and particularly the need for and timing of a fiber optic transpacific cable.[3]

2. In response to the Further Notice, the American Telephone & Telegraph Company (AT&T), Hawaiian Telephone Company (HTC), GTE Sprint, Satellite Business Systems (SBS), ITT World Communications (ITTWC), RCA Global Communications (RCA), MCI International (MCII), and FTCC filed on April 12, 1985 updated country-by-country forecasts for the POR for the period 1987–1995. April 22, 1985 AT&T and Comsat filed circuit distribution (loading) plans for a number of facility proposals with varying designs ready-for-service dates. Comsat's submission was based upon a balanced loading methodology, while AT&T used a methodology it calls Modified Economic Loading. Comments were filed on May 6, 1985 by AT&T, Comsat, MCII, GTE Sprint, State of Hawaii (Hawaii), HTC, ITIWC, Department of Defense (DoD), Simplex Wire and Cable Company (Simplex), RCA, the National Telecommunications and Information Administration (NTIA), and SBS. Reply comments were filed by AT&T, Comsat MCII, ITIWC, NTIA, DoD, Simplex, Hawaii, and GTE Sprint on May 17, 1985.[4]

3. In considering facilities planning questions we analyze a number of factors in order to determine the need for, design and timing of any proposed facility or group of facilities. These factors include demand, the introduction of a new technology, the development of intermodal and intramodal competition, service quality, cost, technological risk, correspondent acceptance, U.S. industrial interests and national security. We believe that a balancing of the factors identified above support the introduction of a fiber optic cable in the Pacific Ocean Region as early as 1988. Thus, we affirm our tentative conclusion that the public interest is best served by the introduction of a fiber optic cable, and particularly the cable described in Plan II–A (Mod. 4), as early as 1988. Below we: (a) Identify the current facilities in the region; (b) summarize the NOI and the facility plans submitted in response to the NOI; and (c) analyze the relevant issues. For each issue we will review our tentative conclusion set forth in the Further Notice, summarize the comments received on the issue and then reach conclusions. After discussing all the issues we will then indicate our final conclusions as to the need for and timing of a fiber optic transpacific cable.

A. Current Facilities

4. Commercial communications between the United States and other countries in the POR are carried via INTELSAT satellites and carried-owned submarine cables. Currently, approximately 70% of POR traffic to or from the United States is routed over INTELSAT satellites and 30% is routed over submarine cables. Satellite capacity is made available by INTELSAT to the U.S. signatory to INTELSAT, Comsat, and is leased by Comsat to the various U.S. carriers. Alternatively, submarine cables are owned by the U.S. carriers themselves in partnership with their foreign correspondents.[5] Japan, Australia, the Philippines, Korea, Taiwan, and Hong Kong account for approximately 80% of all U.S.–POR traffic, while Japan, Australia and the Philippines account for over 50% of the traffic. There are ten jurisdictions in the region that are currently served only by satellite for U.S. traffic.[6]

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[1] Pacific Planning (Notice of Inquiry, Phase II), FCC No. 83–515 (released November 21, 1983).

[2] Pacific Planning (Further Notice of Proposed Rulemaking, Phase II), FCC No. 85–121 (released March 28, 1985).

[3] Phase I of this docket focused on facility needs for the POR for the 1982–1986 time period. *See*, Pacific Planning (Report and Order, Phase I) 47 FR 57040 (December 22, 1982). The first phase of this proceeding focused on issues involving the Australian-New Zealand-Canada submarine cable (ANZCAN). We approved U.S. carrier participation in ANZCAN with a mix of permanent (ownership) and temporary indefeasible right of user (IRU) interests. At that time we envisioned that the short term IRUs held by U.S. carriers in the Canada to Hawaii segment of the cable would terminate in the late 1980's, at which time the traffic would be routed over a fiber optic Haw-4. Additionally, we concluded that an analog Haw-4/TPC–3 in the late 1980's was not in the public interest.

[4] On April 29, 1985 Comsat filed a Request for Inspection of Records under the Freedom of Information Act (FOIA), requesting country-by-country traffic forecasts and loading data submitted by AT&T for which AT&T had requested confidential treatment. Accompanying Comsat's FOIA request was a Motion for Extension of Time to file comments in this docket. On May 5, 1985 we denied the request for an extension of time, stating that if Comsat's FOIA request was ultimately granted we would establish a revised pleading cycle. On May 16, 1985 we granted Comsat's FOIA request. In a separate order we stated that additional comments would be due no later than seven days after the documents Comsat requested were made available for inspection, and that additional reply comments would be due fourteen days after the documents were made available. By letter dated May 22, 1985, AT&T indicated its willingness to make the requested information available. The information was thereafter made public on May 23, 1985. On May 30, 1985 Comsat filed further comments and on June 6, 1985 AT&T filed further replies.

[5] International communications in countries other than the United States are generally controlled by a government agency. These agencies are known as Post, Telephone and Telegraph administrations (PTTs) and usually have a monopoly over the provision of telecommunication services in the given country.

[6] The jurisdictions in the region served solely by satellite are: Brunei, Peoples Republic of China,

Continued

5. Satellite capacity in the POR currently consists of an INTELSAT IV–A Primary satellite and an INTELSAT IV–A Operational Spare.[7] In early 1986 both the INTELSAT IV–A Primary and Operational Spare will reach the end of their useful lives and will be replaced with INTELSAT V satellites. In 1987 the INTELSAT V Primary is scheduled to be replaced by an INTELSAT V–A satellite and the INTELSAT V Operational Spare will become solely a spare satellite. Additionally in 1987 an INTELSAT V–A may be placed in the region as the Major Path satellite.[8] In 1991 the Primary and Spare are scheduled to be replaced by INTELSAT VI (or INTELSAT VI follow-on) satellites. The Major Path satellite is scheduled to be replaced by an INTELSAT VI (or INTELSAT VI follow-on) satellite in 1993.

6. There are currently two transpacific cable systems (TPC–1 and TPC–2) serving the region from Hawaii. Hawaii and the U.S. Mainland are connected by three major cables (Haw 1, 2, and 3). With the exception of service to Australia, Fiji and New Zealand, via the ANZCAN cable, all other cables providing voice service to the region from the U.S. are saturated. Also, only limited growth remains to carry non-voice traffic over IRC owned cable circuits. Further, many of the major cable systems in the POR will reach the end of their design life during the planning period. Most notably, TPC–1 is scheduled to reach the end of its design life in 1989.[9]

B. The NOI and Proposed Facility Plans

7. The task in the phase II NOI was to obtain the necessary planning information and to compile as complete a record as possible with respect to facilities requirements and alternatives for the region during the planning period. We stated in the NOI that we would consider all available transmission media and viable technological designs as well as methods for circuit multiplication. Additionally, the issues of facilities use and restoration of service were also identified for consideration. Finally, the need for as well as the timing and configuration of the proposed fiber optic TRANSPAC–3 (TPC–3) cable were particularly raised as issues.[10]

8. After the release of the NOI, alternative facilities plans and traffic forecasts were submitted and evaluated by the United States International Service Carriers (USISCs).[11] Comsat and other interested parties.[12] In its filings, AT&T indicated that the USISCs and their foreign correspondents favored a fiber optic TPC–3 in 1988. Additionally, AT&T stated that international comity is an essential element of facility planning and must be considered in any facility decisions. GTE Sprint also favored the introduction of TPC–3 in 1988, but cautioned that the circuit forecasts supplied by the carriers should be viewed only as a rough guage of needed facilities and that there should be flexibility for new carriers to acquire additional circuits in the future. Comsat stated that the Commission must examine closely the need for and timing of any additional facilities during the planning period. Comsat also favored the development of a Master Plan for facilities utilization. The State of Hawaii asked us to examine closely the need for and revenue requirements associated with any new facility. Further, Hawaii urged us not to authorize any new facilities on the basis of international comity unless those facilities are actually required to meet demand forecasts. Finally, DoD stressed that national defense and security interests require a Guam landing for the TPC–3 cable.

9. In response to the NOI, four different plans were submitted for the introduction of a fiber optic cable into the region, two by the USISCs and two by Comsat. The plan preferred by the USISCs is Plan II–A (Mod. 4). Under this plan a cable would link the U.S. Mainland and Hawaii to Japan and Guam via an underwater branching unit near Guam. Additional cable systems would then be deployed from Japan to Korea to Hong Kong, to the Philippines and back to Guam, creating a ring configuration. Additionally, a branch would be deployed under this plan from the Philippines to Taiwan (see Appendix 1 for diagram). Plan II–A (Mod. 4) calls for the U.S. to Japan, U.S. to Guam and Guam to the Philippines cables to be ready for service in 1988, with the rest of TPC–3 to be operational in 1990 or later. The total first cost of Plan II–A (Mod. 4) is approximately $733 million.[13] AT&T's share is almost 44%, or approximately $320 million. The cost in 1988 dollars is approximately $980 million assuming a 6% inflation rate. AT&T's share in 1988 dollars is approximately $425 million.

10. The USISCs' secondary proposal, Plan III Modified, would link the U.S. Mainland with Hawaii and Japan. Additional cable systems would then be deployed from Japan to Korea, to the Philippines and to Hong Kong with a connecting cable from Taiwan to the Philippines. There is no provision for a Guam landing in this plan, and the total cable is of a non-ring design (see Appendix 2 for diagram). The total first cost of this plan is $588 million with a ready-for-service date of 1988 for all but the Philippines-Taiwan cable, which would be operational in 1994. AT&T's share is approximately $225 million. In 1988 dollars the total cost and AT&T's share are $786 million and $300 million, respectively.

11. Comsat's two plans are identical to those of the USISCs with one major difference. Comsat Plan IA is based upon Plan II–A (Mod. 4) but with a ready-for-service date of 1991 rather than 1988. Plan 2A is the same as Plan III Modified but again with a ready for service date of 1991 rather than 1988.

II. Discussion

A. Demand, Capacity and Demand Flexibility

12. In the Further Notice we stated, "there is little question that satellites committed to the region for East-West traffic when equipped with circuit multiplication techniques can handle the projected traffic and any unanticipated increase in traffic volume without the introduction of a lightguide cable system until at least 1991." Assuming the deployment of a Major Path satellite in 1987 as currently scheduled and the use

French Polynesia, Marshall Islands, Micronesia, New Caledonia, Tonga, American Samoa, Saipan and Western Samoa.

[7] Both the primary and spare satellites are used to carry traffic in an Operational and Operational Spare configuration. However, the total traffic carried on the two satellites does not exceed the capacity of either satellite. The advantage of such a configuration is that path diversity is increased.

[8] Under a Major Path configuration, both the Primary and Major Path satellites are used to carry traffic; the Spare is solely a reserve satellite, although it may be used to provide pre-emptible services.

[9] COMPAC was taken out of service in 1984. Other cables reaching the end of their design life during the planning period are: HAW–1 (when Haw–4 is put into service), HAW–2 (1989), SEACOM–1 (1987), SEACOM–2 (1990).

[10] Throughout this order, the use of the term TPC–3 designates the entire group of cable facilities encompassed by Plan II–A (Mod. 4) or Plan III (Modified).

[11] The USISCs include AT&T, the International Record Carriers (IRCs) and other service providers including MCII and GTE Sprint.

[12] Comments to our NOI were filed on January 4, 1984 by the State of Hawaii, GTE Sprint and Comsat. Joint comments were filed by the following USISCs: American Telephone and Telegraph Co. (AT&T), Hawaiian Telephone Co. (HTC), FTC Communications (FTCC), ITT World Communications Inc. (ITTWC), RCA Global Communications, Inc. (RCA), TRT Telecommunications Corporation (TRT), The Western Union Telegraph Company (WU), and Western Union International, Inc. (WUI). Reply comments were filed on January 18, 1984 by AT&T, Comsat, State of Hawaii, GTE Sprint, RCA, ITTWC, and the Department of Defense (DoD).

[13] First cost is the capital investment associated with a new facility. The USISCs computed first cost in 1983 dollars.

of circuit multiplication techniques, the total satellite capacity in the region available for U.S.-POR traffic will be about 17,500 circuits, while total U.S.-POR demand, even in 1991, is forecasted to be less than 15,000 circuits. Of course, with existing cable capacity, the total capacity available for U.S.-POR traffic is even greater. Thus, we found that despite a lack of cable capacity in the region, there is no need for the TPC-3 cable on a purely demand basis until at least 1991 if INTELSAT's satellite deployment plans do not change.

13. While not directly disputing our finding of sufficient gross capacity in the region until at least 1991, most commenters argued that gross capacity alone is not determinative of the need for the cable in 1988. AT&T and others argued that cable and satellite circuits are not always fungible and that an unfilled demand exists for cable circuits regardless of adequate gross capacity. SBS stated that the digital capacity of TPC-3 is needed given the growth of Integrated Services Digital Networks (ISDNs). TPC-3, according to SBS, would prevent double satellite hops as more of the domestic portion of traffic is routed over satellite. ITTWC commented that 80% of its circuit needs for the POR are for private line services and that customers using private lines prefer cable facilities over satellite facilities. AT&T indicated that stated demand forecasts in the proceeding are conservative and that due to such factors as greater reliability and security, reduced absolute delay, and lower interference and error rates, a lightguide cable may be preferred by customers over existing analog cables and satellites, thus spurring growth in excess of that forecasted.

14. Both Comsat and the State of Hawaii, in their comments, stated that the Commission in the Future Notice failed to give adequate weight to the elements of demand and the efficient use of facilities in our decision-making process. Hawaii argued that facilities decisions have traditionally been based overwhelmingly on demand considerations. Comsat asserted that under balanced loading TPC-3 will be only 20% utilized in 1995. Both indicated that if a ratepayer supported TPC-3 was not required on a demand basis until 1991, it should not be built until that time.

15. In its reply comments AT&T argued that excess satellite capacity is not the fault of customers, the USISCs or foreign correspondents, and that the cable should not be delayed merely because INTELSAT has chosen to construct larger than necessary satellites. Further, it argued that Comsat's 20% load figure for TPC-3 in 1995 is incorrect because it fails to take into account the needs of USISCs other than AT&T as well as those of purely foreign users. Comsat, in its reply, questioned whether the stated demand forecasts are all that conservative given the fact that the submitted forecasts translate into a compound growth of 18.1% per year for eleven years.

16. The analysis found in the NPRM that existing and planned capacity would be sufficient to handle forecasted demand through 1991 assumed the introduction of INTELSAT-VA satellites into the POR in 1987 as the Primary and Major Path satellites, the retention of an INTELSAT-V satellite as the spare, and the use of CFDM and 64 Kbps TDMA/DSI. It is now less clear that these assumptions are valid. Specifically, the INTELSAT-VA satellites earmarked for POR use will be transferred to the POR from the Indian Ocean Region (IOR). This transfer is scheduled to occur when INTELSAT-VI satellites are launched into the Indian Ocean Region for Primary and Space satellite roles. It now appears that the INTELSAT-VI satellites may not be placed in the IOR until 1988 and perhaps as late as 1989. Thus, the redeployment of the INTELSAT-VA satellites into the POR could also take place as late as 1989. These delays are attributable to a variety of factors including manufacturing delays, satellite design modifications and availability of launch vehicles. Also, it is less clear that a Major Path satellite will be placed in the POR. Launch or satellite failures, demand and service requirements and other factors may cause INTELSAT to alter its plans to place (or when to place) a Major Path satellite in the region. Further, only two of the INTELSAT-VA satellites and none of the INTELSAT-VI satellites have been launched. Thus, there is a possibility that launch or operational failures could impact eventual deployment of INTELSAT-VA satellites into the POR. Finally, it is not clear that all Signatories will meet their earth station equipment implementation schedules to install advanced modulation equipment as scheduled. Depending on the satellite configuration employed by INTELSAT and the rate of advanced modulation equipment installation by the region's Signatories, available satellite capacity for 1988 could range from 4350 to 17,500 circuits. Satellite demand in 1988, without a TPC-3, is forecasted to be 6450 circuits. Thus, while the INTELSAT-VA satellites may be deployed in the POR in 1987 as the Primary and Major Path satellites, there is a real possibility that these satellites will not be deployed as previously assumed and that a demand requirement for TPC-3 as early as 1988 may materialize. We also note that satellite and cable circuits are not necessarily fungible for private line and data services, particularly those for which security is essential and for which the lowest possible interference and error rates are required. Because most of the cables in the region are saturated, TPC-3 may be necessary to fulfill the explicit demand for cable circuits for these types of services. While it is not impossible that on purely a demand basis a ready for service date of 1991 would still be appropriate, the number of planning variables and our preference to avoid service disruptions caused by saturated facilities lead us to conclude that a TPC-3 as early as 1988 to satisfy forecasted demand would be in the public interest.

B. New Technology

17. The introduction of a lightguide cable system in the POR would introduce digital, fiber optic submarine cable technology into the region for the first time. Such a cable would, at some future date, become part of a globally interconnected digital network. Thus, in the Future Notice we tentatively found that the introduction of a new technology into the region at the earliest practical date (as early as 1988) would be in the public interest.

18. Many of the commenters supporting a TPC-3 in 1988 cited the new technology it would introduce as support. AT&T and ITTWC cited a number of factors including reduced noise, error and absolute delay as support for their belief that a lightguide cable is better suited than satellite for certain services such as high speed data. The State of Hawaii argued that innovative and technologically sophisticated facilities are desirable only if they provide users with services they need at rates they can afford. Comsat commented that digital services already exist, via satellite, to all points in the region and that International Business Service (IBS), a satellite delivered data service, will be available in the region in 1987. Further, Comsat pointed out that due to a lack of digital connecting cables, digital cable services would be available to only Japan, Guam and the Philippines in 1988.

19. There is no doubt that world communications are rapidly becoming digitalized. The planned TPC-3 cable would clearly become an integral part of a worldwide digital communications

network. At the same time we believe that satellites can offer most, if not all, services to be offered on TPC-3. However, due to reduced noise, error and absolute delay relative to satellite, there may be some services such as high speed data which are slightly better suited to cable than to satellite. Additionally it appears that many private line customers prefer cable to satellite, and may prefer fiber optic to analog cables. We believe that customers should, to the maximum extent practicable, have a choice of transmission medium. It is true that the TPC-3 cable will initially serve only a limited number of points. However, as TPC-3 is completed and connecting cables are built, it will quickly grow to serve the bulk of the Pacific Ocean Region effectively and efficiently. We therefore conclude that a fiber optic cable as early as 1988 would promote technological development and customer choice.

C. Intermodal and Intramodal Competition

20. In the Further Notice we tentatively concluded that the introduction of TPC-3 will increase intermodal competition, thus promoting efficiency and creating a downward pressure on rates. Additionally, we tentatively concluded that intramodel competition will be increased because carriers preferring cable technology will have additional capacity to provide competing services.

21. Most of the commenters discussing intermodal competition suppprted our tentative finding that such competition would be increased with the introduction of TPC-3 in 1988. Of note was AT&T's comment that if TPC-3 is deferred until 1991, 90% of the POR traffic will be on satellite by the year 1990. However, both the State of Hawaii and Comsat argued that intermodal competition will not be improved with the introduction of TPC-3 in 1988. Hawaii, in its reply comments, stated that it fails to see "how this benefit [intermodal competition] can be effectively realized in light of the involvement of foreign correspondents, the existence of loading requirements and the fact that satellite facility plans are already fixed through 1991." Comsat argued that a TPC-3 in 1988 would threaten the continuation of cost-effective service on all except non-cable routes, thus creating a barrier to intermodal competition. Further, Comsat stated that because satellite planning is fixed through 1991, any traffic diverted from satellites during this period will have the effect of driving up rates.[14]

22. We continue to believe that intermodal competition will be increased with the introduction of TPC-3. Currently, over 70% of all traffic in the POR is routed over satellite, and all growth, with the exception of traffic to Australia and New Zealand, must be placed over satellite circuits. With the introduction of TPC-3, submarine cables will once again become a competitor for new traffic growth in the region. While there is no question that the existence of foreign correspondents and loading, diversity and restoration considerations may limit the degree of intermodal competition that can currently be introduced into the market,[15] the introduction of a third transpacific cable will achieve significant movement toward a more competitive facilities marketplace. We do not believe that the introduction of TPC-3 will threaten cost-effective satellite service. As Comsat itself has stated, the initial reach of the cable will be limited to only relatively few landing points.[16] Thus, until the full cable system is built, Comsat will continue to carry all growth traffic to most POR markets and a substantial percentage of growth traffic to all POR markets. Additionally, the Commission will continue its loading policies to insure a reasonable use of facilities.

23. There was almost no discussion of intramodal competition in the comments that were filed. We continue to believe, however, that intramodal competition will be increased with the introduction of TPC-3. This is because those carriers desiring cable circuits but presently unable to obtain them will have them available for use. Therefore, we conclude that a fiber optic cable in the POR would increase both intermodal and intramodal competition, and that the public interest would be furthered by the introduction of such competition at the earliest possible date.

D. Service Quality

24. We tentatively concluded in the Further Notice that a transpacific cable based upon Plan II-A (Mod. 4) would be most advantageous from a service quality and reliability standpoint. In discussing service quality there are a number of factors to be examined, including path diversity, restoration, media diversity and loading. We discuss each of these in detail below.

25. *Path Diversity.* Path diversity concerns the number of independent routes that carry traffic to a given correspondent. Path diversity is closely related to the ability to restore circuits in case of a facility failure. The more facilities serving a given location the better the ability to restore one that fails. In the Further Notice we tentatively found that a TPC-3 as early as 1988 with a ring configuration would enhance path diversity by adding another major route to the two satellite (primary and operational spare or primary and major path) and three cable paths (TPC-1, TPC-2 and ANZCAN) already serving the POR.

26. Comsat, in its comments, argued that path diversity is improved from 1986-1990 even if TPC-3 is delayed until 1991. Both Comsat and AT&T used as a measure of path diversity the percentage of traffic that is carried on the most used path to a given country. For the five largest correspondents, Comsat calculated that traffic on a given path never exceeds 50%, and the percentage of traffic carried on the largest path decreases for Australia, Japan, Korea, the Philippines and Taiwan from 1986 to 1990 even without the introduction of TPC-3. AT&T in its reply comments argued that path diversity with TPC-3 in 1988 is better than with TPC-3 in 1991 until 1994 at which time they reach the same level of diversity. Further, AT&T commented that path diversity is at least 12% better to Japan, Korea, the Philippines and Taiwan if TPC-3 is constructed in 1988 and not delayed until 1991. ITTWC agreed with out tentative finding that TPC-3 in 1988 would increase path diversity, and stated that a ring configuration would be preferable from a path diversity standpoint.

27. An increase in path diversity is frequently the natural consequence of the introduction of another facility into the region. While it may be true that path diversity will increase without a fiber optic TPC-3 until 1991, we find based on the filings of AT&T and Comsat that path diversity will increase even more with a TPC-3 in 1988.[17] We

[14] Comsat indicates that its space segment revenue requirement, in the short run, is not affected by changes in satellite demand. Thus, Comsat argues, if the demand for satellite circuits declines, the revenue requirement will simply be spread across fewer circuits resulting in a higher per circuit charge.

[15] While perhaps limiting the degree of intermodal competition, loading guidelines also assure the reasonable use of satellite facilities by recognizing Comsat's (and INTELSAT's) dependence on AT&T traffic and AT&T's bias toward cable, unrelated to relative efficiencies.

[16] We must note, however, that the cable is scheduled to serve Japan and the Philippines, two of the largest POR markets, in 1988.

[17] However, the routing of too much traffic on any one path (cable or satellite) does not promote diversity, although such routing may be beneficial for other reasons.

therefore conclude that TPC–3 as early as 1988 will result in a beneficial increase in path diversity.

28. *Restoration.* Restoration pertains to the ability to maintain service if a facility outage should occur. The issue presents itself in two ways. The first is the degree to which a TPC–3 would enhance the restoration of other facilities in the POR. In the Further Notice we tentatively found that, because a lightguide cable would be able to restore TPC–1, TPC–2 and also satellite services (on a geographically limited basis), a TPC–3 would enhance the restoration of existing facilities.

29. The second restoration issue pertains to how TPC–3 itself would be restored in case of failure. Plan III Modified would be restored completely by satellite as would Plan II–A (Mod. 4) east of the branching unit. However, the ring configuration of Plan II–A (Mod. 4) would allow it to be self-restoring west of the branching unit.[18] In the Further Notice we found this self-restoring capability to be a significant advantage.

30. Many of the parties supporting the introduction of TPC–3 in 1988 cited the self-restoring capabilities of Plan II–A (Mod. 4) as one of its major benefits. Comsat, however, questioned how restoration capability is improved given the fact that there is currently 100% restoration capability in the region via satellite. Further, Comsat pointed out that restoration of TPC–1 and TPC–2 by TPC–3 would require analog to digital conversion equipment, the cost of which is unknown.

31. We continue to believe that restoration capability will be improved in the region with the introduction of a transpacific lightguide cable based upon Plan II–A (Mod. 4) in 1988. Such a cable offers a number of restoration advantages. Foremost, the ring design would allow the cable to be self-restoring, in part or in whole, west of the branching unit. We consider this to be a major advantage because it will allow greater flexibility than satellite restoration alone can offer. Further, if as several commenters stated, there are a number of services that can be offered over a fiber optic cable that cannot be offered over satellite circuits, then the self-restoring capability becomes a critical feature because it will represent the only means of restoring those cable-only services. We also consider TPC–3's ability to restore digital satellite services, albeit on a geographically limited basis, to add more flexibility to restoration planning. Finally, although conversion equipment would be necessary, the use of a fiber optic TPC–3 to restore the analog TPC–1 and TPC–2 cables is a useful restoration option.

32. We asked, in the Further Notice, not only for the USISCs to present specific plans as to how TPC–3 would be restored but specifically whether a TPC–4 will be needed at some future date substantially for restoration purposes. No party anticipated a TPC–4 primarily for restoration purposes. Thus, given the high reliability claims for TPC–3 espoused by various parties, as well as the ability of satellites to restore all, or nearly all, TPC–3 traffic, we do not now anticipate a need for a ratepayer supported TPC–4 which is not substantially justified on demand forecasts.

33. *Media Diversity.* In the Further Notice we tentatively found that media diversity would generally be enhanced by the introduction of a fiber optic transpacific cable. While we took no position on what a preferable cable/satellite ratio would be, we noted that approximately 70% of all traffic and almost all growth traffic is currently routed over satellite. We found that a fiber optic TPC–3 would especially enhance media diversity because high speed data and other wideband services that are currently available only over satellite circuits could be carried over it.

34. There was a general lack of discussion in the filings regarding media diversity. ITTWC and GTE Sprint supported the Commission's tentative findings with respect to media diversity. Comsat, on the other hand, questioned whether a slight increase in media diversity warrants the building of a very expensive cable facility.

35. We confirm our finding that media diversity is increased with the introduction of TPC–3. Comsat's own figures show that in 1990 for the four largest correspondents to be served by TPC–3, media diversity is at least 24% better with the cable in service in 1988 rather than 1991.[19] We find this to be a significant improvement. Thus, improved media diversity would be achieved by a TPC–3 as early as 1988.

36. *Loading.* Circuit distribution (loading) is the method by which the Commission directs the placement of U.S. traffic on the different media to assure the reasonable use of both satellite and cable facilities and the development of intermodal competition.[20] A loading methodology promotes the efficient use of satellite and cable facilities in the region. While we expect that as competition develops in the POR, AT&T's incentives will increasingly be driven by economic efficiency, a loading plan now offsets AT&T's present incentives to use cable rather than satellite circuits. The imposition of a loading methodology also recognizes the great reliance that Comsat (until recently limited to being a carrier's carrier) and INTELSAT place an AT&T for traffic and revenues. Thus, a loading methodology assures that Comsat receives an adequate amount of traffic from AT&T, which is not only the largest U.S. carrier in the region but also the largest owner of cable facilities.

37. To date a balanced loading methodology has been used for the placement of AT&T's IMTS circuits in the POR. Balanced loading is a feature of the master plan formulated by AT&T and Comsat under general guidelines established by the Commission in this proceedings.[21] Under such a plan, traffic growth is divided among available cable and satellite paths on a country-by-country basis.[22] Since the existing East-West cables other than ANZCAN are basically saturated, almost all traffic growth in the region has been placed on satellite. However, once TPC/3 is ready for service, both cable and satellite capacity will be available to carry growth traffic. It is at this time that a loading methodology becomes operationally and financially important.

38. In the Further Notice we expressed our desire to move away from a prescribed loading methodology. We stated, however, that we cannot rely on market forces alone to drive circuit activation decisions until such time as effective carrier and facility competition exists. As this point has not yet been reached, we stated that it would be best to develop a loading policy concurrently with our long-range facilities planning for the region. This will allow those building and investing in POR facilities

[18] The actual restoration capability west of the branching unit would be determined by the amount of idle capacity existing at the time of the failure within the ring.

[19] Comsat uses the percentage of traffic on satellite to a given country as an index of media diversity. Thus, the percentage of traffic over satellite to Japan in 1990, for example, is 56% with TPC–3 in 1988 and 62% if TPC–3 is delayed until 1991.

[20] For a detailed description of loading issues see, Inquiry into the Policies to be Followed in the Authorization of Common Carrier Facilities to Meet North Atlantic Telecommunications Needs During the 1985–1995 Period (Second Report and Order), FCC No. 85– , released August , . [North Atlantic Loading Report and Order]

[21] Pacific Planning *supra* note 3, 47 FR at 57045–46.

[22] Presently, AT&T and HTC are the only carriers subject to the loading standards of the master plan. All other carriers have complete loading flexibility since they use relatively few circuits, their circuit choices are subject to customer choice or their service offerings are subject to significant competitive pressures. (HTC's private line circuits are also exempted from specific loading methodology.)

to make reasoned and knowledgeable choices. We set forth, in the Further Notice, a number of possible loading options. These included a continuation of balanced loading under a master plan, a phase-in plan moving away from balanced loading under a master plan, as well as the NTIA plan.[23] We indicated an inclination to continue the existing exemption from any methodology for providers of record services, and to extend this exemption to new entrants and IMTS providers other than AT&T. Thus, any methodology would apply only to AT&T.

39. A large number of the comments we received dealt with the issue of loading at some length. The comments generally revolved around which carriers and services should be subject to loading, what loading methodology the Commission should adopt, and how long the Commission should continue to be involved in loading decisions. Additionally, Comsat questioned whether the Commission has sufficient information to reach any conclusions as to loading in the region.

40. All those commenting on the issue were in agreement that any loading methodology that we adopt should apply only to AT&T. There was some disagreement, however, as to which of AT&T's service offerings should be subject to loading. ITTWC argued that, based upon AT&T's greater resources and possible anti-competitive pricing, all of AT&T's services should be subject to loading. AT&T replied that because non-IMTS services are competitive, loading should apply only to IMTS. GTE Sprint suggested, and MCII agreed, that AT&T's 800 Service-Overseas should be subject to loading guidelines since AT&T is the only provider of this service and the service uses the IMTS network.

41. Five basic loading methodologies for AT&T's IMTS circuits were put forward in the comments: modified economic loading by AT&T, the NTIA plan, a multi-tier plan by GTE Sprint, a nine year transitional phase-in plan by ITTWC and a continuation of balanced loading by Comsat.

42. AT&T put forth a loading plan it calls "modified economic loading." This methodology, according to AT&T, compares "the economic per-circuit costs to the carriers, *i.e.*, the projected tariff charge for a satellite circuit, and the comparable annual carrying costs for a cable circuit." AT&T also stated that there will be no off-loading of satellite circuits, and that a reasonable level of media diversity will be maintained. Further, under the AT&T plan, any shortfall or excess in traffic will be apportioned between cable and satellite based upon their relative distribution percentages in the loading plan for the year. Finally, AT&T stated that any loading guidelines should end at year-end 1990.

43. With respect to AT&T's loading plan, Comsat stated that it had serious reservations about modified economic loading. It argued that this would amount to a three year freeze on satellite usage growth, and that a 5–6% per year decline in relative satellite usage under modified economic loading would be unreasonable. Finally, Comsat stated that loading guidelines should not automatically end at year-end 1990. Rather, Comsat argued that loading should extend through 1995 because the full fiber optic network will not be established until the mid-1990's and because the large cable circuit capacities that will be available in the region make loading even more important.

44. ITTWC proposed a nine year transition methodology. Its plan calls for five years of balanced loading after which overall loading flexibility would gradually be increased by up to 2% per year. According to ITTWC, this would allow AT&T to route approximately 60% of all growth traffic over cable circuits during the planning period and would result in a 49/51 cable/satellite ratio in 1995. ITTWC argued that a transition period avoids drastic usage alterations, prevents off loading and protects existing investments. ITTWC also stated that it believed that loading should not automatically end at year-end 1990, but rather when the Commission finds that sufficient competition has developed in the international marketplace.

45. AT&T stated that ITIWC's nine year transitional period was too long and "represents an artificial restraint that benefits competitors at the expense of AT&T." NTIA argued that 2% per year loading flexibility would not make the market more competitive but would merely exchange one ratio (70/30) for another (51/49).

46. GTE Sprint supported a two-tier loading plan. This approach was first suggested by the Commission in the Notice of Proposed Rulemaking on North Atlantic loading.[24] Under this methodology more loading flexibility would be granted for AT&T's traffic to those countries that have entered into multiple operating agreements for IMTS service. In this way, GTE Sprint argued, PTTs will be encouraged to grant operating agreements to IMTS providers other than AT&T. Specifically, GTE Sprint proposes that AT&T be granted as an upper tier, 2% per year loading flexibility for those countries in which IMTS competition exists.[25] GTE Sprint proposed that balanced loading would apply to those countries without IMTS competition as a lower tier.

47. AT&T argued that a two-tier plan such as the one supported by GTE Sprint is likely to be counterproductive by hardening opposition to competition among foreign countries, is of limited flexibility, and is likely to be unfair to those countries with small traffic volumes which have less incentive to deal with more than one U.S. carrier. MCII called GTE Sprint's plan "unabashedly self-serving." Further, MCII pointed out that in addition to MCII, AT&T and Comsat opposed a similar proposal in the North Atlantic.[26] MCII argued that multiple suppliers do not necessarily equal effective competition, and that operating agreements are best left to negotiation between carriers and their foreign correspondents. Finally, Comsat and AT&T agreed that any loading methodology adopted should be applied to all countries.

48. The NTIA loading proposal attempts to simulate a market without facility biases. It requires the Commission to determine annually the relative revenue requirement for cable and satellite circuits in a particular region on a per circuit basis and then use these numbers to determine loading requirements in a cost effective manner. In theory, under the NTIA plan the more efficient medium will be given a larger share of the traffic in the region. NTIA stated that it would not be opposed to an interim loading plan of 2% per year while the Commission is developing a cost-based methodology to implement its proposal.

49. AT&T stated that the NTIA loading proposal is comparable to an economic loading approach. However, AT&T argued that the NTIA plan would

[23] *See* paragraph 48, *infra*, for a discussion of the NTIA plan.

[24] *See*, North Atlantic Planning (Further Notice of Proposed Rulemaking), FCC 85–176, released April 22, 1985.

[25] GTE Sprint proposes that the trigger mechanism for allowing AT&T greater loading flexibility should be that "the country in question must sign operating agreements with the major International MTS competitors." It proposed that presently, GTE Sprint and MCII should be considered major competitors and that the Commission could adopt standards to designate other carriers as major competitors.

[26] In the North Atlantic Loading proceeding AT&T characterized the two-tier methodology as "unworkable" and likely to lead to unfair consequences, especially for countries with small traffic streams. Comsat argued that the burden of new entrants would be placed on it. Further, Comsat stated that the two-tier methodology suffers from severe definitional problems.

result in a "regulatory quagmire" involving elaborate Commission involvement and limited loading flexibility. Comsat stated that it still has doubts about the NTIA proposal and that it should be subject to further review and refinement.

50. Comsat argued here, as in the North Atlantic, that balanced loading is the best methodology to use for loading circuits. Comsat stated that balanced loading yields service reliability benefits and apportions the risk of excess capacity evenly between cable and satellite. AT&T argued that balanced loading does not give it sufficient flexibility and also does not decrease at a fast enough rate the high cable-satellite circuit distribution gap that currently exists in the POR. It has also been argued that balanced loading does not encourage Comsat or INTELSAT to be cost efficient and that it does not encourage intermodal competition.

51. The issues surrounding loading are extensively discussed in the Report and Order, adopted today, which discusses loading policies for the North Atlantic region. In that proceeding we determined that loading guidelines will only be prescribed for circuits used by AT&T to provide U.S.-CEPT message telephone and allowed AT&T up to 2% per year flexibility in its placement of these circuits on either cable or satellite facilities for the period 1986–1988. This approach would permit AT&T to route approximately 63% of all growth traffic over cable. Any loading methodology adopted must take into account the specific facts and conditions that exist in the region. Thus, the exact methodology found to be appropriate in the North Atlantic region may not necessarily be appropriate in the POR. Among the important differences between the regions are traffic levels, Commission acceptance for the 1982–1986 period of a carrier-proposed master plan in lieu of government-mandated requirements, and as well as the difference in the level of carrier and facility competition that currently exists.

52. The loading policy we adopt today for the POR applies only to circuits used by AT&T to provide IMTS and 800 Service-Overseas.[27] We have concluded that it is not necessary to include in any loading prescription circuits used to provide record services, circuits used by new entrants to provide service, or circuits used by any carrier other than AT&T to provide IMTS, because of the relatively small number of circuits involved, the ability in many instances of the user to designate the medium, and the competitiveness of many of these services. *See,* North Atlantic Loading Report and Order at paragraphs 42–47. AT&T accounts for a large majority of the total circuits used in the region. For example, it is forecasted that in 1987 AT&T will use over 75% of the U.S.-POR circuits. Additionally, AT&T's IMTS accounts for almost all of its circuit use. Thus, until such time as a marketplace mechanism is sufficiently developed to distribute U.S.-POR IMTS circuits, it remains necessary for the Commission to require a loading methodology that insures efficient use of all facilities. Further, we believe it is appropriate to include AT&T's 800 Service-Overseas in any loading plan since the service is provided over the same switched network as IMTS.[28]

53. Until such time as there is adequate carrier and facility competition in the region it will be necessary for the Commission to require a loading methodology. Thus, we will not set an automatic ending date for loading as AT&T suggests. At the same time, however, we recognize that international telecommunications industry is now in the midst of a transition period toward a more competitive environment. For this reason the loading plan we adopt today runs for five years from January 1, 1987 through year-end 1991. The timeframe for the initial loading guidelines in both regions do not necessarily bear any relationship to the overall time period that loading guidelines will be in force. Prior to year-end 1991 we will revisit the loading issue to determine what loading approach, if any, is required for the duration of the planning period.[29]

54. *Balanced Loading.* We believe that balanced loading will not be the most desirable methodology for use in the POR. It is true that balanced loading is a predictable and automatic loading technique that requires little active Commission involvement. It does not, however, create the proper economic incentives for Comsat, INTELSAT or foreign administrations. We are not persuaded that guaranteeing Comsat a traffic share of 59% or more throughout the period (as would be done under balanced loading) provides strong enough incentive to Comsat and INTELSAT to plan, build and operate efficient and cost effective facilities. It may also not encourage Comsat to enter the IMTS market or to compete more vigorously for IMTS traffic. Further, a balanced loading plan provides no incentives to foreign administrations to enter into operating agreements with additional U.S.-IMTS carriers. Thus, we do not now adopt a balanced loading methodology for circuit distributions in the POR during the 1987–1991 time period.

55. *NTIA Plan.* We believe that the NTIA cost-based circuit distribution methodology could provide a number of benefits including the development of a competitive, unbiased facilities marketplace. We retain our concern, however, that the NTIA proposal is not fully defined, that it could require a substantial and continued level of Commission involvement in loading decisions and that it could complicate facilities planning by the carriers, their correspondents, Comsat and INTELSAT. *See,* North Atlantic Report and Order at paragraphs 52–56. Thus, we cannot conclude now that NTIA's plan be adopted for loading decisions in the region during the 1987–1991 period.

56. *GTE Sprint Multi-tier Plan.* We conclude that we should not adopt a multi-tier loading methodology for the POR. While we are concerned about the slow progress being made in the POR in the acquisition of operating agreements, a multi-tier approach is more complex and may require more Commission involvement in loading decisions than the phase-in methodology we are adopting. Further, the multi-tier proposal remains ill-defined in many respects. Areas of concern include the handling of countries with small traffic streams, what the correct trigger mechanism should be as well as the correct definition of the lower and higher tiers. For these reasons we are not convinced that it is the best approach for the POR at the present time. However, as the loading guidelines to be used will expire prior to the end of the planning period and will be revisited prior to year-end 1991, the multi-tiered loading methodology may be further studied at a later date.

57. *Modified Economic Loading.* AT&T proposed a plan which it states is based upon the relative costs of satellite and cable circuit use. AT&T has provided us with no showing of how the plan was actually derived. Thus, while we assume this plan to be AT&T's preferred loading methodology, we attach no other significance to it. We believe that in a non-competitive

[27] Any reference to AT&T's IMTS in the discussion of loading shall apply to AT&T's 800 Service-Overseas as well, and the circuits used for 800 Service-Overseas may be aggregated with the IMTS circuits. The loading policy prescribed here shall be employed by AT&T as of January 1, 1987.

[28] We are exempting AT&T's private line service from loading because it is subject to the same marketplace distribution mechanisms as are other carriers providing leased channels. *See,* North Atlantic Report and Order at paragraph 44.

[29] We retain, of course, the ability to modify the timeframe or the methodology we are adopting if circumstances warrant.

marketplace, the AT&T plan may not provide the most efficient and cost effective use of facilities in the region. Further, although POR traffic streams are not as large as those in the North Atlantic, AT&T's proposal may result in an upward pressure on Comsat's rates, and would adversely affect the development of intermodal competition.[30] Thus, we do not adopt modified economic loading as the loading plan for the region for the 1987–1991 period.

58. *ITTWC Phase-in Plan.* The phase-in plan put forth by ITTWC has a number of drawbacks. Foremost among these is that the phase-in time period may be too long and the flexibility gained may be too slight. Phase-in plans in general, however, are attractive as they provide an orderly transition from balanced loading to a loading plan with increased flexibility. Thus, the loading plan we adopt today for the POR is similar to that adopted in the North Atlantic.

59. While we believe that a gradual phase-in of loading flexibility is useful in the POR, we have made adjustments in the exact mechanics of the phase-in plan to fit the unique facts of the region. The most important difference between the North Atlantic and Pacific regions for loading purposes is the way in which the different media are currently loaded. In the North Atlantic the current cable/satellite ratio is 48/52. Thus, in the North Atlantic we adopted a plan allowing 2% flexibility per year for three years. In the Pacific the ratio is currently 30/70 changing to approximately 24/76 in 1987. Thus, we are adopting for years two through five, a regional plan allowing 8% flexibility in 1988 and then 4% for the next three years.[31] This allows an average about 65% of all traffic growth to be routed over cable for the years 1988–1991 and results in a more balanced cable/satellite ratio of 44/56 in 1991.[32]

60. We allow a large percentage of flexibility in 1988 as it is the first year TPC–3 will be ready for service and the loading ratio at that date will be highly favorable to satellite interests. Also, while 8% flexibility appears to be a large change, it actually is very close to the levels that would be reached under either AT&T or Comsat's preferred plans for that year. There is no evidence that the loading plan we are adopting will have a detrimental effect on Comsat, INTELSAT or ratepayers.[33]

E. Cost Analysis

61. In the Further Notice we tentatively concluded that delaying the cable until 1991 could result in lower international rates for users stemming from a lower overall revenue requirement which users are required to support.[34] We were unable to determine exactly how much would be saved through deferral, although in response to the NOI the USISCs and Comsat, using different methodologies, approximated the savings to be $33 million and $120 million, respectively, over the planning period. We also reached no conclusion as to the total service costs associated with the various facility plans put forth by the parties. We determined that none of the costing methodologies used by AT&T or Comsat accurately reflected costs.

62. AT&T and Comsat, in their comments and reply comments in response to the Further Notice, discussed at great length the issue of cost. Comsat indicated that deferral would result in a savings of $193 million in 1988 dollars. AT&T, in its reply comments, pointed out that Comsat omitted a number of costs associated with delay, including higher construction costs due to inflation, the continued use of ANZCAN circuits, and lost transiting revenues.[35] AT&T found that if the cable is delayed until 1991, there will be additional costs of $365 million. Additionally, AT&T took issue with Comsat's cost estimates for added satellite use if the cable were delayed. Due to the operational preference of not off-loading traffic from one medium to another, AT&T argued that any traffic routed over satellites due to delay of the cable would remain on satellite at least until the end of the planning period, resulting in higher expenses until at least 1995.

63. Simplex stated that the Commission's tentative finding of lower costs to the ratepayer if the cable is delayed is "correct in an abstract, theoretical sense [but] it is oversimplified and not useful in the present context." Simplex argued that there was no evidence that costs will decrease over time, especially when inflation is factored in. ITTWC commented that TPC–3 could give its customers lower rates because the per circuit costs of TPC–3 are lower than TPC–1 or TPC–2 and it will have more circuits in TPC–3 than in TPC–1 or TPC–2. ITTWC stated, using a composite rate methodology, that this could result in the average cost per POR circuit being reduced, which could result in lower rates to the consumer. The State of Hawaii urged that no transpacific cable be authorized until it has been shown to be cost effective. This has not been done, Hawaii argued, since there has

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[30] *See,* North Atlantic Loading Report and Order. In that proceeding we employed a methodology to attempt to calculate the effect that various loading schemes would have. We found there that, if Comsat's space segment revenue requirement is fixed, the fewer circuits that are placed on satellite the higher the space segment charge per circuit. For the POR we estimate that the revenue decrease for Comsat from using modified economic loading as compared with balanced loading, assuming a constant bundled space segment charge of $1060 per circuit per month, would be almost $12 million through 1991. (*See,* Appendix 3). In terms of rates, we do not believe that the number of circuits in this region are so great as to have an unreasonable or traumatic impact on Comsat's actual global rates. Nevertheless, on a regional basis the traffic diversion and rate/revenue differentials are not inconsequential and support our conclusion to adopt a phase-in proposal less severe than the one proposed by AT&T.

[31] Under any loading plan approximately 76% of all traffic will be placed on satellite in 1987 because TPC–3 will not yet be in service so that there will be no cable capacity [other than ANZCAN] on which AT&T will be able to load any quantity of traffic. The loading plan we are adopting gives the following year-by-year cable/satellite ratios: 1987: 24/76; 1988: 32/68; 1989: 36/64; 1990: 40/60; 1991: 44/56. We will require AT&T, as well as all other U.S. TPC–3 co-owners, to file a regional loading plan for the 1987–1991 period with its Section 214 application to build TPC–3, based upon its most recent traffic forecasts and in conformance with this loading methodology. Further, we shall require all U.S. TPC–3 co-owners to retain traffic loading data on a country-by-country basis for the 1987–1991 period. Such data may be requested by the Commission during its consideration of future loading policies. Finally, all U.S. TPC–3 co-owners shall also file country-by-country loading plans for the TPC–3 facility with their Section 214 application so that we may authorize both the building of the cable and the activation of the circuits therein.

[32] The yearly flexibility will be cumulative in nature. As in the North Atlantic, we will not allow deloading of circuits once they have been activated on a particular transmission medium.

[33] For the five year period, we estimate that the revenue difference for Comsat from using the phase-in plan rather than balanced loading, assuming a constant bundled space segment charge of $1060 per month per circuit, would be approximately $5.5 million. This is less than fifty percent of the difference between balanced loading and modified economic loading. (*See,* Appendix 3).

[34] Rates to customers are established to recover, in a fair and reasonable way, a specific overall revenue requirement. A revenue requirement is made up of two factors—the return on investment, and expenses (including taxes and depreciation). The return on investment of a carrier consists of a certain allowed percentage (rate of return) applied to the net book value of the facilities owned by that carrier which are used and useful in the provision of communication services. For example, if AT&T's share of the proposed TPC–3 cable is $425 million (of a total of approximately $980 million), the associated revenue requirement would be about $100 million. This includes a return on investment of about $54 million (12.75% × $425 million) and about $46 million in taxes and other expenses. Thus, if Comsat's revenue requirement is relatively fixed and a TPC–3 would be added to AT&T's rate base and reflected in AT&T's revenue requirement, then the total revenue requirement which ratepayers must support is increased upon the introduction of TPC–3 (or any other new facility).

[35] AT&T estimated the costs due to the continued use of ANZCAN circuits to be $33 million and foregone transiting revenues to be $12 million if the cable is delayed until 1991.

been no showing of revenue requirements or per circuit costs associated with the cable.

64. There are two basic questions that must be answered concerning the cost of the cable. First, what are the costs which ratepayers would be required to support? Second, are there significant cost savings to be gained or additional costs to be incurred by delaying the cable until 1991?

65. There is no question that the proposed transpacific cable is an expensive undertaking. TPC–3 will cost approximately $980 million in 1988 dollars, with AT&T's share being approximately $425 million. As indicated in footnote 33, this results in a theoretical added overall revenue requirement for AT&T (return on investment plus taxes and expenses) of approximately $100 million for the first year the entire cable is in place. Of course, this figure would be partially offset by lower ownership expenses in the ANZCAN North cable, by reduced satellite lease expenses, and by transiting revenues paid by foreign administrations employing U.S. domestic facilities to carry traffic to an from TPC–3. AT&T estimates these costs and revenues to be about $101 million for the years 1988–1990, or $34 million per year (AT&T Reply Comments, at 12).[36] We cannot determine exactly what effect the added revenue requirement will have on rates, because, for a variety or reasons, an estimated increased revenue requirement may or may not be reflected in rates. If TPC–3 stimulates substantial demand for services beyond what it would be otherwise, then rates need not increase. Also, AT&T might be unable or unwilling to earn a 12.75% return on this investment. Finally, because international costs and revenues are aggregated on a worldwide basis, circumstances in other regions affecting unrelated facilities may have a considerable impact. Thus, if we view the figures in the record as establishing a maximum, rather than an actual revenue impact, the building of TPC–3 may increase AT&T's revenue requirement by as much as $66 to $85 million per year in 1988 through 1990 ($100 million per year reduced by $34 to $15 million in savings).

66. The other question revolves around the cost savings or additional costs if the cable is delayed until 1991. AT&T, Comsat and others have argued vigorously as to the extent of any savings or additional costs due to delay. AT&T's total estimate of $365 million in increased costs due to delay appears overstated (see note 35, *supra*). However, at a minimum there will be savings of ANZCAN costs ($33 million) as well as an increase in transiting revenues ($12 million) if the cable is built in 1988 rather than 1991. Thus, total added costs (and lost revenues) if the cable is delayed until 1991, excluding satellite leases, may be $45 million or more.[37] On the other hand, it is possible that the cost of optical fiber cable may decline as manufacturers improve their processes and as demand for this product increases. Thus, the cost of physical cable may be lower if construction is delayed. From the foregoing analysis, we can conclude generally that some savings to ratepayers would result from a delay of the TPC–3 cable from 1988 to 1991. However, these savings are not likely to be so dramatic as to outweigh the advantages, recited here, of activating the cable in 1988.

F. Technological Risk

67. In the Further Notice we tentatively concluded that the introduction of TPC–3 in 1988 posed no technological risk to service. This was based upon our belief that there will be sufficient satellite capacity in the region throughout the planning period so that no communications would be threatened if the cable were to perform below expectations. However, we also considered the possibility of potential benefits to be gained by delaying implementation of TPC–3 until 1991, including gaining experience with TAT–8 prior to introduction of fiber optic technology in the POR.

68. ITTWC argued that the technological risk of TPC–3 in 1988 is "de minimis." AT&T felt that there is no need to wait to gain experience from TAT–8 before proceeding to construct TPC–3. Rather, AT&T argued that the "knowledge and experience gained on other systems installed prior to TAT–8 will aid in minimizing technological risk." Further, according to AT&T, waiting to gain experience from TAT–8 would delay TPC–3 until about 1993. In its reply comments, Comsat took issue with this statement, stating that waiting for TAT–8 would delay TPC–3 only until 1991.

69. We continue to believe that any technological risk stemming from a transpacific cable in 1988 is slight. While waiting to gain experience from TAT–8 certainly would not be harmful from a technological point of view, it is not necessary to delay the TPC–3 for technological reasons. Because a great deal of experience has been (or will shortly be) gained from other fiber optic cable projects, and because ample satellite capacity exists in the region, we find that there is no substantial justification to delay implementation of TPC–3 based upon technological risk.

G. Correspondent Acceptance

70. We tentatively found in the Further Notice that our foreign correspondents preferred Plan II–A (Mod. 4) with a ready-for-service date of 1988. We noted the long and extensive analysis of facilities needs by the USISCs and their foreign correspondents that led to the joint preference for Plan II–A (Mod. 4) in 1988.

71. Those commenters, including RCA and ITTWC, discussing international comity agreed with our tentative conclusion that Plan II–A (Mod. 4) is the plan most acceptable to our foreign correspondents. Our decisions, of course, are not decided solely by the needs and desires of our foreign correspondents. However, international comity remains an important factor in our decision making process. Thus, we conclude that from the standpoint of correspondent acceptance, Plan II–A (Mod. 4) is preferred.

H. National Security

72. Throughout this phase of the proceeding, DoD and NTIA have expressed their desire for a Guam landing point for defense, security and commercial reasons. The Further Notice reached no conclusion as to the advisability of including a Guam landing point in the plans for any transpacific cable we might approve. We asked parties to comment on the advisability of a Guam landing and whether the added costs of a Guam landing would place an unnecessary and unjustified burden on ratepayers. Further, we asked

[36] There is some question about the extent of savings from discontinued satellite circuit usage. In addition to the savings on satellite circuits from 1988–1990 ($56 million), AT&T claims additional savings through 1995 of $181 million (Reply Comments, at 11–12). This calculation was not based on the loading methodology we adopt here; accordingly, we cannot credit it. Furthermore, if Comsat's revenue requirement is fixed, then, although the number of circuits that AT&T leases from Comsat may decline, the per circuit cost paid by AT&T for satellite circuits may increase, and the total satellite lease costs paid by AT&T to Comsat would remain relatively constant. There are too many unknown variables at this time, such as the cost of future satellite systems, the growth in demand for satellite circuits throughout the Pacific Basin, and INTELSAT pricing strategies, to predict accurately the net savings to AT&T in satellite lease expenses. *See* footnote 14.

[37] As noted by Simplex, *supra* para. 63, there will be efficiencies produced if TPC–3 is manufactured immediately after TAT–8. If a delay occurs, then it is likely that manufacturing plants will have to be shut down in the interim, resulting in expenses when they are restarted. There is no evidence in the record indicating precisely the amount of such expenses.

for comments on whether the Commission should impose a special rate designed to recover the cost of a Guam landing.

73. No party filing comments was opposed to including a Guam landing for TPC–3. Most of the comments deferred to the expertise of DoD in national security matters. The fact that a Guam landing would give the U.S. a controlled point of entry into the POR and provide a transiting point for U.S. users were among the benefits cited by NTIA. In addition to national security, AT&T felt that a Guam landing is justified because it improves the quality and reliability of systems west of Guam, allows for digital interconnectivity to the Philippines and the South Pacific, and is commercially valuable to the U.S. cable industry. Comsat, however, questioned the need for another transmission path to Guam in 1988, given the low circuit usage to that point. It stated that two cable paths (TPC–1 and 2) and two satellite paths are sufficient until at least 1991. Hawaii also felt that a Guam landing could reasonably be delayed until 1991.

74. ITTWC, which supported a Guam landing, was the only party that supported a special charge to recover the costs of a Guam landing. ITTWC felt such a charge was justified given the small number of circuits DoD requires.[38] A number of parties, in arguing against a special charge, pointed to the widespread commercial benefits a Guam landing would provide. HTC argued that no special rate was needed because a Guam landing offers "sufficiently generalized benefits that they should be paid in a generalized way." Further, HTC stated that a special rate for Guam cable service would distort cable-satellite competition while a special rate for both cable and satellite service to Guam might cause bypass and lessen the chance of cost recovery. DoD stated that a "special" U.S. government contribution to the cost of a Guam landing would set a bad precedent for future projects. AT&T took no position on the issue of a special charge, except to note that tariff charges have never been made a condition of a cable authorization. A number of parties took issue with our estimate of the costs added by a Guam landing. NTIA put the cost at $16.5 million, while AT&T estimated the cost to be $20 million.

75. We find that a Guam landing is in the public interest. A major factor in this determination is the national security considerations discussed by DoD. However, there appear to be additional factors that support the inclusion of a Guam landing in TPC–3. These include service quality and reliability considerations, transiting and interconnection possibilities, and the advantages to U.S. carriers of having the midpoint of the cable further west.

76. We also conclude that a special rate for service to Guam is not justified. We are convinced that there are sufficient generalized service benefits to make a special rate unnecessary. These benefits include increased service reliability and quality, transiting and interconnection with future cable systems in the region, and a U.S. controlled landing point in the POR. Thus, we conclude that a Guam landing should be included in TPC–3 without a special rate.

I. U.S. Industrial Interests

77. Pursuant to the draft Construction and Maintenance Agreement, U.S. companies will construct the Haw-4 cable as well as the portion of TPC–3 from Hawaii to the branching unit. This represents a total of 5,115 miles or 71.5% of the total cable length and 72.5% of the contract award ($430 million).[39] Japanese companies will construct the remaining 2,034 miles from the branching unit to Guam and Japan. We reached no tentative conclusion in the Further Notice as to the effect delay would have on U.S. industrial interests. We did, however, state that the building of TPC–3 in 1988 "is of considerable value and importance to U.S. manufacturers." Nevertheless, we indicated that delay could have a greater negative effect on U.S. interests if the cable were being competitively bid (which it was not) rather than arising from a negotiated agreement between U.S. firms and their foreign correspondents (which it was).

78. Simplex, as the major U.S. manufacturer (with AT&T) of TPC–3, filed comments and replies that discussed the harm perceived if we delayed the cable until 1991. Simplex stated that the U.S. currently has a significant industrial advantage, and that a two or three year delay could erode that lead because as the demand for coaxial submarine cables declines, countries such as England, France and Japan are turning to fiber optic technology. AT&T argued that a delay would harm U.S. industrial interests because it would require shutting down manufacturing facilities after TAT–8 is completed and then later restarting them. Comsat argued that there has been no showing made of any U.S. loss due to delay. Comsat reasoned that Haw-4 will be U.S. built whenever the cable is constructed, and that given the high planned U.S. usage of TPC–3, any negotiated agreement for the rest of the cable should be favorable to U.S. interests. Finally, Comsat felt it was doubtful that foreign know-how would catch up with that of the U.S. Hawaii, in its replay comments, asserted that U.S. interests would benefit by waiting until some experience with TAT–8 is gained.

79. There is no question that the current draft Construction and Maintenance Agreement is favorable to U.S. interests. It is difficult to gauge exactly what effect a delay would have on the way in which construction of the cable is apportioned. It seems safe to say, however, that U.S. industrial interests would not likely be in a more advantageous position if the cable is delayed. The question, then, is what are the chances that these interests will be in a worse position if the cable is build in 1991 instead of 1988. Given the speed with which other countries are developing the capacity to manufacture fiber optic cable, the prospect of U.S. interests building less of the cable if it is delayed appears to be real even if the project is not competitively bid. Thus, we conclude that U.S. industrial interests are best served if TPC–3 is deployed in 1988 rather than 1991.

J. Other Issues

80. *Further Bifurcation of the Process.* In the Further Notice we found that the plans and traffic forecasts submitted by the parties gave us sufficient information to enable us to recommend facility plans for the entire 1987–1995 time period. Thus, we tentatively conclude that there is no need to bifurcate the process further, and that the INTELSAT V, V–A and VI satellites as well as a fiber optic TPC–3 are the appropriate planned facilities for the POR of the 1987–1995 time period. Comsat stated that it felt that the issue of bifurcation should be held in abeyance until the timing of TPC–3 is settled. As no party has any strong objection to our tentative conclusion against bifurcation of the process, we affirm that tentative conclusion.

81. *Master Loading Plan.* As we are adopting a regional loading methodology, it is not necessary for AT&T to file a Master Loading Plan on a country-by-country basis. However, we will require AT&T to file with its section 214 application to construct TPC–3, a regional loading plan, based upon its most recent traffic forecasts, for the

[38] DoD anticipates leasing less than 200 TPC–3 circuits by 1995 and only a few dozen by 1991.

[39] AT&T has also been awarded the construction contract for the Guam-Philippines cable, valued at approximately $107 million. The remaining cables in the TPC–3 system have not yet been procured.

1987–1991 time period in conformance with the loading methodology we are adopting.

82. *Warranty Provisions.* In its comments, ITTWC asked the Commission to investigate the warrenty provisions contained in the TPC–3 Construction and Maintenance Agreement. Specifically, ITTWC questioned why the warranty term for the negotiated TPC–3 is two years while the warranty term for the competitively bid TAT–8 is ten years. MCII and GTE Sprint, in their reply comments, echoed ITTWC's concerns.

83. The Commission is of course concerned with the quality and dependability of the proposed transpacific cable. However, we view the differing warranty terms, not as a reflection of inferior quality of TPC–3, but rather as an outcome of two different procurement processes. Additionally, there may be reasons such as greater distance, ocean depth, currents and water pressure to have a shorter warranty period for TPC–3 than TAT–8.

84. *State of Hawaii.* The State of Hawaii raised a number of issues relating to the use of TPC–3 as it relates to the states. Specifically, Hawaii urged the Commission to investigate allegedly discriminatory rates charged to Hawaiian ratepayers and asked that circuit allocations for services to Hawaii argued that there has been no analysis of how the proposed TPC–3 would affect domestic rates or services. We do not find Hawaii's arguments to be germane to this proceeding. Specifically, Hawaii's charges relating to discriminatory pricing by GTE are more properly raised in a rate proceeding.[40] Further, as TPC–3 is intended to provide almost exclusively international services, we do not find it necessary to inquire into the effect that it will have on domestic services. Further, any carrier wishing to use TPC–3 for international services will be required to file a section 214 application which will be thoroughly considered whether in separate or combined actions.

85. *Purchase of IRUs.* SBS asks that we insure that owners of the cable system make available IRU interests on the same terms as has previously been done in the Atlantic. In the Atlantic we ordered that "when a given applicant seeks to acquire or transfer an ownership or IRU interest in TAT–8 capacity, the reimbursement it receives shall be on the basis of depreciated original cost (or the prorated accumulated cost of such circuit if the system is not then operational) or in conformance with such policy as the Commission may develop in the future regarding the price at which IRU's will be made available." *See,* American Telephone & Telegraph Company, *et al.* (TAT–8 order), FCC 84–240, released June 8, 1984. We find no reason not to apply the same policy to transfers or sales of IRU interests in TPC–3. Further, capacity in TPC–3 should be made available to non-carriers in conformance with the policies developed in the Commission's proceeding in CC Docket *83–1230, International Communications Policies,* FCC 85–369, released August — , 1985.

86. *AT&T's use of facilities.* ITTWC in its filings voiced its concern that AT&T not have an advantage over other carriers serving the non-IMTS market by placing this traffic entirely over new, low-cost facilities. While it is true that AT&T could achieve a pricing advantage over its competitors if it did place its less competitive IMTS traffic over older, higher cost facilities and its more competitive non-IMTS services over newer, lower cost facilites, AT&T likely will use a cross section of its available facilities for all of its service offerings. In any event this argument is highly speculative and does not dictate any action in this proceeding.

III. Summary and Final Conclusions

87. Traditionally, a number of significant factors are weighed in the facilities planning process. TPC–3 incorporates the most advanced technology and will become a vital link in worldwide communications. It also fosters greater intermodal and intramodal competition. TPC–3, particularly the carriers' preferred ring design cable, will also offer greater restoration flexibility as well as improved media and path diversity, is preferred by our carriers' foreign correspondents, satisfies the national security requirements of DoD, and raises no significant technological risks. We also cannot overlook the fact that the Construction and Maintenance Agreement, as it is currently drafted, is quite favorable to U.S. industrial interests. We cannot be assured of such favorable treatment if the cable is delayed until 1991. Finally, a TPC–3 as early as 1988 insures that there will be sufficient capacity in the region to meet demands needs if, by choice or necessity, satellite deployment plans are altered.[41] Thus, we find, on balance, that such a cable with a ring design as proposed in Plan II–A (Mod. 4) and with a ready-for-service date as early as 1988 is in the public interest.[42]

IV. Ordering Clauses

88. Accordingly, it is ordered, pursuant to section 4(i), 4(j), 201–205, 214 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201–205, 214, 403 (1976) that we adopt the following policy guidelines for the Pacific Ocean Region:

(1) We find that a transpacific, fiber optic cable, Plan II–A (Mod. 4), with a ready for service date as early as 1988 is in the public interest.

(2) We find that the public interest would be served by the adoption of the phase-in loading methodology as set forth above.

89. It is further ordered, that all U.S. TPC–3 co-owners shall file with their section 214 application to build TPC–3 a regional loading plan, based upon their most recent traffic forecasts, for the 1987–1991 time period in conformance with the loading policies as set forth above. All U.S. TPC–3 co-owners shall also, file country-by-country loading plans for the TPC–3 facility with their section 214 application.[43] Additionally, all U.S. TPC–3 co-owners shall retain traffic loading data on a country-by-country basis for the 1987–1991 period.

90. Pursuant to section 605(b) of the Regulatory Flexibility Act 5 U.S.C. §§ 605, it is ordered, that sections 603 and 604 for the Act do not apply because the circuit distribution policies adopted herein is a rule of particular applicability to the American Telephone and Telegraph Company and is, hence, not subject to the Regulatory Flexibility Act.

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[40] Many of the issues Hawaii raises have been discussed at length in other proceedings. *See,* Integration of Rates and Services, 61 FCC 2d 380 (1976), *recon.* 65 FCC 2d 324 (1977); Establishment of Domestic Communications—Satellite Facilities, 35 FCC 2d 844 (1972).

[41] Even if there is a lack of an overall IMTS demand requirement for a TCP–3 in 1988, a balancing of the factors still leads us to conclude that a ready-for-service date as early as 1988 is in the public interest.

[42] While it is not our preferred plan, we also find that the public interest would be served if the U.S. carriers and their foreign correspondents chose to build Plan III Modified with a ready-for-service date as early as 1988.

[43] This filing will permit a section 214 authorization to both build the cable and activate the circuits therein consistent with the submitted plans. Activations not consistent with the submitted plans would require separate authorization.

91. It is further ordered that CC Docket 81-343 remains open for additional proceedings upon further order of the Commission.

92. It is further ordered that the Secretary of the Commission shall cause this Second Report and Order to be published in the **Federal Register** and shall mail a copy of this decision to the Chief for Advocacy of the Small Business Administration.

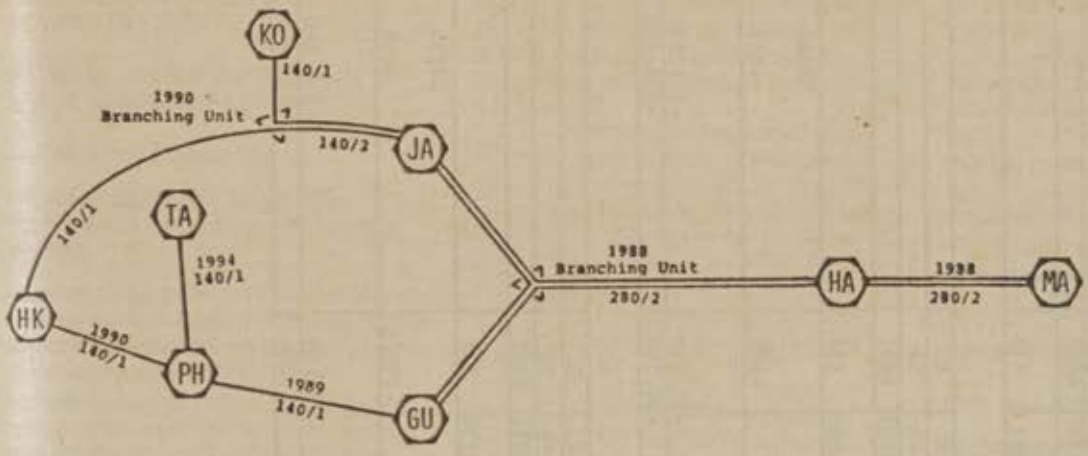
Federal Communications Commission.

William J. Tricarico,

Secretary.

BILLING CODE 6712-01-M

APPENDIX 1

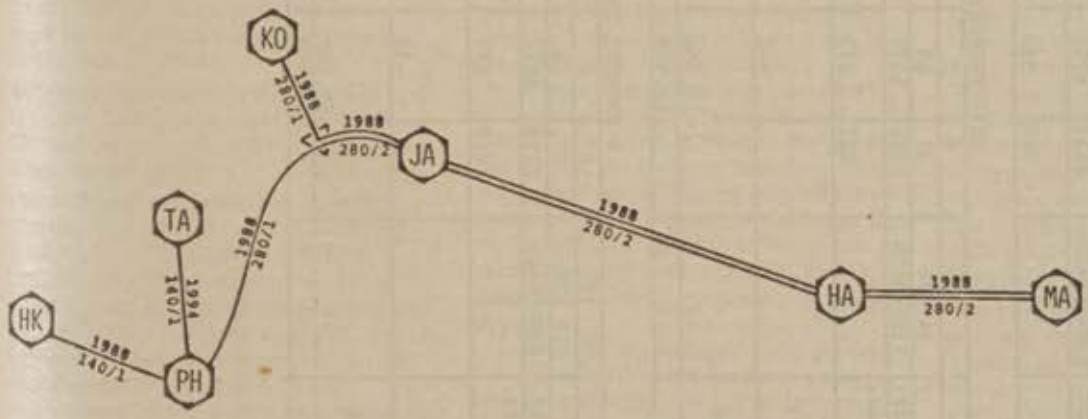


LEGEND

GU = Guam
HA = Hawaii
HK = Hong Kong
JA = Japan
KO = Korea
MA = U.S. Mainland
PH = Philippines
TA = Taiwan

PLAN II-A MOD (4)

APPENDIX 2



LEGEND

HA = Hawaii
HK = Hong Kong
JA = Japan
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PH = Philippines
TA = Taiwan

PLAN III MODIFIED

APPENDIX 3

COMPARISON OF THE APPLICATION OF CIRCUIT DISTRIBUTION GUIDELINES TO AT&T'S U.S.-PACIFIC MTS TRAFFIC

YEAR	1987		1988		1989		1990		1991		
AT&T FORECAST	5784		6888		8128		9592		11298		
BALANCED LOADING											
	C	S	C	S	C	S	C	S	C	S	
Percent Cable/Sat.	24	76	31	69	34	66	39	61	41	59	
No. of Cable/Sat. Cir.	1384	4400	2133	4755	2796	5332	3768	5824	4655	6643	
No. of Cable/Sat. Cir. Added			749	355	663	577	972	492	887	819	
AT&T PROPOSAL (MODIFIED ECONOMIC LOADING)											
	C	S	C	S	C	S	C	S	C	S	
Percent Cable/Sat.	24	76	32	68	37	63	43	57	46	54	
No. of Cable/Sat. Cir.	1384	4400	2211	4677	2991	5137	4138	5454	5207	6091	
No. of Cable/Sat. Cir. Added			827	277	780	460	1147	317	1069	637	
Sat. Cir. Year Difference Compared to Balanced Loading				-39		-136.5		-282.5		-461	TOTAL -919
Revenue Difference Compared to Balanced Loading COMSAT	-$	M		-$0.50M		-$1.74M		-$3.59M		-$5.86M	-$11.69M
INTELSAT	-$	M		-$0.40M		-$1.28M		-$2.64M		-$4.31M	-$ 8.63M
4 PERCENT INCREASED FLEXIBILITY PER YEAR											
	C	S	C	S	C	S	C	S	C	S	
Percent Cable/Sat.	24	76	32	68	36	64	40	60	44	56	
No. of Cable/Sat. Cir.	1384	4400	2211	4677	2926	5202	3837	5755	4971	6327	
No. of Cable/Sat. Cir. Added			827	277	715	525	911	553	1134	572	
Sat. Cir. Year Difference Compared to Balanced Loading				-39		-104		-99.5		-192.5	TOTAL -435
Revenue Difference Compared to Balanced Loading COMSAT	-$	M		-$0.50M		-$1.32M		-$1.27M		-$2.45M	-$ 5.54M
INTELSAT	-$	M		-$0.40M		-$0.97M		-$0.93M		-$1.80M	-$ 4.1M

[FR Doc. 85-21044 Filed 9-3-85; 8:45 am]
BILLING CODE 6712-01-C

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 15 and 52

Federal Acquisition Regulation; Certification of Commercial Pricing; Meeting

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of public meeting with representatives of the Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council.

SUMMARY: In response to the interim rule published on July 3, 1985 (50 FR 27560) (48 CFR Part 15), a substantial number of comments were received. The Councils have drafted a final rule after considering all of these comments and the draft final rule accommodates many of these comments. However, some of the comments raised issues upon which more specific information would be helpful.

This notice requests comments on those issues and announces a public meeting with representatives of the Councils.

DATE: The public meeting will be held from 10 a.m. until 12 noon on Tuesday, September 10, 1985.

ADDRESS: The meeting will be held at the GSA Auditorium, 1st floor, GSA Central Office, 18th and F Streets NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Charles W. Lloyd, Executive Secretary, DAR Council, DASD(P)DARS c/o (M&RS)/RE, Room 3D139, Pentagon, Washington, D.C. 20301–3062, telephone (202) 697–7768 or Harry Rosinski, Deputy Director, Office of Federal Acquisition and Regulatory Policy, Office of Acquisition Policy, Room 4030, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone (202) 523–4746.

SUPPLEMENTARY INFORMATION: The issues raised are as follows:

1. It has been alleged that the Paperwork Reduction Act submission to OMB did not accurately estimate the administrative burden which the interim rule will impose on industry. What additional data should be considered in estimating the burden?

2. It has also been alleged that the determination under the Regulatory Flexibility Act that the interim rule will not have a significant effect on a substantial number of small entities was not valid. What specific information should the Councils consider in formulating and adopting a final rule on this subject?

3. Some comments suggested that there are certain types of sales that should not be considered "to the public" for purposes of complying with the new statutory requirements for commercial pricing certificates. If so, what types of sales should qualify, why should the final rule exclude them, and how can they be defined in a manner that is fair to industry, yet faithful to the Congressional intent with regard to commercial pricing? Two specific categories that commenters suggested for exclusion are: (a) Sales to subsidiaries, affiliates, parent companies, and branches of the same business entity; and (b) sales to original equipment manufacturers, dealers and remarketers.

4. Depending on price fluctuations and market conditions, the interim rule allows the contracting officer to vary the length of time for which an offeror/contractor must certify that the item offered to the Government has not been sold to the public at a lower price. Some comments asserted that this flexibility imposes additional, and perhaps unwarranted, burdens on industry. If this is true, what types of additional reporting systems must an offeror/contractor construct to accommodate varying time periods? Is there a single time period that would simplify reporting systems, yet provide sales data for comparison purposes that is both relevant and faithful to the general policy that the Government should not purchase items of supply offered for sale to the public at a price that exceeds the lowest price at which such items are sold by the contractor unless the price difference is clearly justified by the seller?

5. In requiring contractors to retain certain sales records for three years, it has been alleged that the interim rule burdens industry more than other retention periods which are currently mandatory. If so, how does the three year period and the types of sales records which must be retained vary from current business practices or from standards imposed by the Internal Revenue Service or other governmental instrumentalities?

The public meeting will be held from 10:00 a.m. until 12 noon on Tuesday, September 10, 1985 at the GSA Auditorium, 1st floor, GSA Central Office, 18th and F Streets NW., Washington, D.C. A draft of the final coverage will be available for review by September 3, 1985. Copies can be obtained from Charles W. Lloyd, DAR Council Office, 1211 South Fern Street, Arlington, Virginia or The FAR Secretariat, Room 4041, GSA Building, 18th and F Streets NW., Washington, D.C.

Owen L. Green,

Acting Executive Secretary, Defense Acquisition Regulatory Council.

[FR Doc. 85–21022 Filed 9–3–85; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Refuge-Specific Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) is amending certain regulations in 50 CFR Part 32 that pertain to migratory game bird, upland game, and big game hunting on individual national wildlife refuges. Refuge hunting programs are reviewed annually to determine whether the regulations governing individual refuge hunts should be modified. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitats may warrant such amendments. The modifications will ensure the continued compatibility of hunting with the purposes for which the individual refuges involved were established and, to the extent practical, may refuge hunting programs consistent with State regulations.

EFFECTIVE DATE: October 4, 1985.

FOR FURTHER INFORMATION CONTACT: James F. Gillett, Division of Refuge Management, U.S. Fish and Wildlife Service, Main Interior Building, 18th and C Streets, NW, Room 2343, Washington, D.C. 20240; Telephone (202) 343–4311.

SUPPLEMENTARY INFORMATION: 50 CFR Part 32 contains the provisions that govern hunting on national wildlife refuges. Hunting is regulated on refuges for three basic reasons: (1) To properly manage the wildlife resource, (2) to protect other refuge values, and (3) to ensure refuge user safety. On many refuges, the Service policy of adopting State hunting regulations is an adequate way of meeting these objectives. On other refuges, it is necessary for the Service to issue hunting regulations that

supplement State regulations to ensure that the Service meets its management responsibilities, as outlined under the section entitled "Conformance with Statutory and Regulatory Authorities." Refuge-specific hunting regulations are issued only at the time of, or after the determination and publication of, the opening of a wildlife refuge to migratory game bird, upland game, or big game hunting. These regulations may list the wildlife species that may be hunted, seasons, bag limits, methods of hunting, descriptions of open areas, and other provisions. On September 19, 1984, at 49 FR 37736, the Service codified refuge-specific regulations for migratory game bird, upland game, and big game hunting. Subsequent rulemakings at 49 FR 38642, 49 FR 37093, 49 FR 43549, 49 FR 50049, and 50 FR 34478 corrected, amended, or added to these regulations.

The Service reviews refuge hunting programs annually to determine if modifications in the regulations governing individual refuge hunts are necessary. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitats may warrant that refuge-specific hunting regulations be modified, relaxed, or made more stringent. This ensures the continued compatibility of hunting with the purposes for which individual refuges were established and, to the extent practical, makes refuge hunting programs consistent with State regulations. This rule will amend and supplement certain refuge-specific regulations in 50 CFR 32.12, 32.22, and 32.32, which pertain to migratory game bird, upland game, and big game hunting, respectively. The rule was published as a proposal on June 4, 1985, at 50 FR 23470.

The wording of several of the regulations published in the June 4 rule has been changed for clarity. Several regulations have also been modified to correct the descriptions of areas in which hunting activities on individual refuges will be permitted. Regulations contained in the present rule for migratory game bird hunting at Missisquoi National Wildlife Refuge (NWR) differ somewhat from those published in the June 4 proposed rule. These differences reflect changes made as a result of public comments received on the refuge's draft environmental assessment for its migratory bird hunting program. The revised environmental assessment and corresponding Finding of No Significant Impact were completed after the proposed rule was published. The changes will better protect the waterfowl resource and improve hunter safety.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, written comments received during the 30-day comment period for the proposed rule are addressed in the following section.

Responses to Comments Received

Written comments were received from one organization in response to the proposed rulemaking. Substantive issues raised are outlined and responded to below:

Issue: Because State regulations will govern all aspects of the hunting programs not covered in the proposed rule, the rule will illegally transfer authority for managing Federal lands to the States, thereby violatiing the Refuge Administration Act.

Service Response: The Service disagrees with this comment for two reasons.

First, it is untrue that State regulations will govern all aspects of refuge hunting programs not covered in the proposed rule. The rule only contains regulations for refuges where hunting regulations needed to be amended. If refuge hunting regulations required no changes, they were not listed in the rule. Second, the rule will not transfer Service authority for managing national wildlife refuges to the States. Refuges are opened to hunting and hunting is managed in accordance with the authority of the Secretary of the Interior under the Refuge Administration Act and the Refuge Recreation Act. Once the Secretary has made the mandated determinations under these authorities, it is Department policy to conduct hunting within the framework of State laws and regulations and to impose additional requirements, where necessary, as refuge-specific regulations. This policy is clearly stated in 50 CFR 32.2(d): "Each person shall comply with the applicable provisions of the laws and regulations of the State wherein any area is located unless further restricted by Federal law or regulations." Under the regulations that will govern these hunts, the Service maintains its authority to enforce all State and Federal game regulations on national wildlife refuges.

Issue: The Service did not make an annual compatibility determination for each refuge hunting program, thereby violating the Refuge Administration Act and Refuge Recreation Act.

Service Response: All refuge hunting programs and regulations are reviewed annually to ensure their continued compatibility and consistency with refuge purposes.

Issue: The determinations required under 50 CFR 31.1 and 31.2 have not been made.

Service Response: 50 CFR Part 31 is limited to recognizing general authority to dispose of surplus wildlife and lists hunting as one method of control and disposition. The Service's procedure for permitting hunting on refuges is set forth in 50 CFR Part 32. This rule involves the policy and regulations set forth in Part 32 which essentially require that hunting be consistent with the principles of sound wildlife management and otherwise be in the public interest.

Issue: Hunting on national wildlife refuges is illegal under the Refuge Administration Act and Refuge Recreation Act because it is incompatible with the legal responsibilities of the Refuge System to preserve, protect, and enhance wildlife.

Service Response: The Service believes that the statement that hunting on refuges is illegal is without statutory foundation. The Refuge Recreation Act states that the Secretary is authorized to administer refuges for public recreation. The Refuge Administration Act authorizes the Secretary to permit the use of any area within the Refuge System for any purpose, including hunting. Thus, the Service believes that Congress clearly intended that recreation be an important part of a refuge management program to the extent that it can be made compatible with the primary purposes of a refuge. This was affirmed in the decision in The Humane Society of the United States v. Morton, Civil Action No. 3627 (D. D.C. 1973), where the court found that hunting on Great Swamp, Eastern Neck, and Chincoteague NWRs was a valid and legal form of public recreation on these refuges. The compatibility provision applies to the purposes of individual refuges, not to the purposes of the entire Refuge System. As stated above, refuge hunting programs and regulations are reviewed annually to ensure their continued compatibility with individual refuge purposes.

Issue: The proposed hunting regulations violate the Endangered Species Act because the necessary determinations have not been made to ensure that the regulations will not adversely affect endangered and threatened species.

Service Response: When refuge hunting plans are developed, consideration is given to the potential impacts upon any endangered or threatened species that might use the refuges involved. Where necessary, the

Service prepares section 7 analyses, thereby complying with the Endangered Species Act. These analyses are examined annually to ensure continued compliance with the Act. Hunting programs are developed to minimize any potential adverse impacts on endangered and threatened species and, when needed, refuge-specific regulations are used to ensure that the hunting programs will not affect threatened or endangered species. The programs are administered by wildlife professionals who have the responsibility to conserve endangered and threatened species.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the Refuge Administration Act authorizes the Secretary of the Interior to permit the use of any area within the Refuge System for any purpose, including but not limited to hunting, fishing, and public recreation, accommodations and access, when he determines that such uses are compatible with the major purposes for which the areas were established.

The Refuge Recreation Act authorizes the Secretary to administer areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the areas were established. The Refuge Recreation Act also authorizes the Secretary to issue regulations to carry out the purposes of the Act.

Hunting plans are developed for each hunting program on a refuge prior to the opening of the refuge to hunting. In some cases, refuge-specific hunting regulations are included as a part of the hunting plan to ensure the compatibility of the hunting programs with the purposes for which the affected refuges were established. Initial compliance with the Refuge Administration and Refuge Recreation Acts is ensured when the hunting plans are developed, and the determinations required by these Acts are made prior to the addition of refuges to the lists of areas open to hunting in 50 CFR. Continued compliance is ensured by annual review of hunting programs and regulations.

Economic Effect

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

The amendments to the codified refuge-specific hunting regulations will make relatively minor adjustments to existing hunting programs. The regulations are not expected to have any gross economic effect and will not cause an increase in costs or prices for consumers, individual industries, Federal, State, or local governments, agencies, or geographic regions. The benefits accruing to the public are expected to exceed by a large margin the costs of administering this rule. Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Act.

Paperwork Reduction Act

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB as cited below:

Type of information collection	OMB approval No.
Hunter surveys	1018-0044
Special use permits	1018-0046
Hunter reservation/permit application/blind assignment	1018-0047

These regulations impose no new reporting or recordkeeping requirements that must be cleared by OMB.

Environmental Considerations

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" [FES 76-59] was filed with the Council on Environmental Quality on November 12, 1976; a notice of availability was published in the **Federal Register** on November 19, 1976 (41 FR 51131). Compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) is ensured when hunting plans are developed, and determinations required by these acts are made prior to the addition of refuges to the lists of areas open to hunting in 50 CFR. Refuge-specific hunting regulations are subject to a categorical exclusion from the NEPA process if they do not significantly alter the existing use of a particular national wildlife refuge. The changes made by this rulemaking will not substantially alter the existing uses to the refuges involved. Section 7 evaluations and/or consultations for the refuges included in this rule indicated that neither existing nor amended hunting regulations will jeopardize the continued existence of any endangered or threatened species.

Information regarding hunting permits and the conditions that apply to individual refuge hunts and maps of the hunt areas are available at refuge headquarters. This information may also be obtained from the regional offices of the U.S. Fish and Wildlife Service at the addresses listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon and Washington.
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE Multnomah Street, Portland, Oregon 97232; Telephone (503) 231-6214.

Region 2—Arizona, New Mexico, Oklahoma and Texas.
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 766-2324.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin.
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 725-3507.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Puerto Rico and Tennessee.
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, Georgia 30303; Telephone (404) 221-3538.

Region 5—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia.
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700,

Newton Corner, Massachusetts 02158; Telephone (617) 965-5100.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming.

Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; Telephone (303) 234-4608.

Region 7—Alaska (Hunting on Alaska refuges is in accordance with State hunting regulations. There are no refuge-specific hunting regulations for these refuges).

Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786-3542.

Stephen J. Lewis, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C., is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, National wildlife refuge system, Wildlife, Wildlife refuges.

PART 32—[AMENDED]

Accordingly, Part 32 of Chapter I of Title 50 of the Code of Federal Regulations is amended as set forth below:

1. The authority citation for Part 32 continues to read as follows:

Authority: Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, sec. 5, 45 Stat. 449, sec. 10, 45 Stat. 1224, sec. 4, 46 Stat. 402, as amended, sec. 4, 48 Stat. 451, as amended, sec. 2, 48 Stat. 1270, sec. 4, 76 Stat. 654, as amended, sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 703, 704, 43 U.S.C. 315a, 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 928; 16 U.S.C 668bb; Proclamation 2416, 5 FR 2677, 3 CFR, 1938-1943 Comp., p. 167; E.O. 1014 (January 26, 1909).

2. Section 32.12 is amended by revising paragraph (d)(1)(v)(C); adding a new paragraph (d)(1)(v)(D); revising paragraph (e)(1)(v); adding new paragraphs (e)(1)(vi) and (e)(1)(vii); revising paragraph (e)(3)(v); adding new paragraphs (e)(3)(vi) and (e)(3)(vii); adding new paragraphs (f)(4)(iii) and (f)(4)(vi); revising paragraphs (h)(1) and (h)(2); revising paragraph (i)(2); adding a new paragraph (i)(3)(vii); revising paragraph (j)(2); revising paragraph (n); revising paragraphs (q)(1) through (q)(3) and paragraphs (q)(4)(vi) through (q)(4)(viii); adding a new paragraph (q)(4)(ix); revising paragraph (s)(2); revising paragraph (v)(2) through (v)(4) and paragraph (v)(6); revising paragraphs (x)(1) and (x)(3); redesignating paragraph (x)(9) as paragraph (x)(10); adding a new paragraph (x)(9); revising paragraph (aa) in its entirety; revising paragraphs (cc)(1) and (cc)(2); revising paragraph (ii); revising paragraph (jj)(2)(i) revising paragraph (ll)(1)(ii); revising paragraph (mm)(1)(iii); adding a new paragraph (mm)(1)(vi); revising paragraph (oo); revising paragraph (pp); and adding a new paragraph (qq)(8)(iv) as follows:

§ 32.12 Refuge-specific regulations; migratory game birds.

* * * * *

(d) * * *

(1) *Cibola National Wildlife Refuge.* * * *

(v) * * *

(C) During the goose season, the Hart Mine Marsh Area is closed to hunting until noon.

(D) Hunters are restricted to 10 shells per day, except in the Hart Mine Marsh Area.

(e) * * *

(1) *Felsenthal National Wildlife Refuge.* * * *

(v) Blinds, boats, and decoys must be removed from the refuge or to a designated area following each day's hunt.

(vi) Firearms must be unloaded when transported or in refuge campgrounds.

(vii) Dogs are permitted.

* * * * *

(3) *Overflow National Wildlife Refuge.* * * *

(v) Blinds, boats, and decoys must be removed from the refuge or to a designated area following each day's hunt.

(vi) Firearms must be unloaded when transported or in refuge campgrounds.

(vii) Dogs are permitted.

* * * * *

(f) * * *

(4) *Kern National Wildlife Refuge.* * * *

(iii) Hunters may not possess more than 25 shells while in the field.

(iv) Hunters must park in assigned lots.

* * * * *

(h) *Delaware*—(1) *Bombay Hook National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for waterfowl hunting except on the South Upland Hunting Area.

(ii) Hunting of waterfowl and coots is permitted on the South Waterfowl Area, the West Waterfowl Area, and the Young Waterfowlers, Area.

(iii) Only snow geese may be taken on th Snow Goose Area.

(iv) Hunting is permitted only from designated sites, except on the South Upland Hunting Area and the Snow Goose Area.

(v) The maximum number of hunters permitted per blind is as follows: West Waterfowl and Snow Goose Areas—4; South Waterfowl Area)—3; Young Waterfowlers Area—2.

(vi) The possession of a loaded shotgun while outside a blind or designated site is not permitted unless actively pursuing crippled birds.

(vii) Waterfowl hunters may not use or possess more than 15 shells per day on the West and Young Waterfowlers Hunt Areas.

(viii) Waterfowl hunters must use and possess shells containing only steel shot.

(ix) Hunting is not permitted from March 1 through August 31.

(2) *Prime Hook National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for waterfowl hunting.

(ii) Only waterfowl and coots may be taken on the Waterfowl and Young Waterfowlers Hunting Areas.

(iii) Only mourning doves, common snipe, and woodcock may be taken on the North Hunting Area.

(iv) Access to the waterfowl hunt area is by boat only.

(v) Except on the North Hunting Area, hunting is permitted from designated blinds only, with a maximum of three hunters per blind.

(vi) The possession of a loaded shotgun while outside of a blind is not permitted unless actively pursuing crippled birds.

(vii) Waterfowl hunters must use and possess shells containing only steel shot.

(viii) Hunters using the Young Waterfowlers Hunting Area may not use or possess more than 25 shells per day.

(ix) Hunting is not permitted from March 1 through August 31.

(i) * * *

(2) *Lower Suwannee National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting on the Dixie County portion of the refuge will be in accordance with State regulations for the Perpetual Wildlife Management Area.

(ii) Hunting of ducks, moorhens, woodcock, rails, coots, and snipe only is permitted on the Levy County portion of the refuge.

(iii) Permits are required for hunting on the Levy County portion of the refuge.

(iv) Hunting is not permitted on the Levy County portion of the refuge during the muzzleloading gun deer hunt.

(v) Only temporary blinds are permitted.

(vi) Decoys must be removed from the refuge following each day's hunt.

(vii) Hunters must use and be in possession only of shells containing steel shot.

(3) *Loxahatchee National Wildlife Refuge.* * * *

(vii) Decoys and other personal property must be removed from the hunting area following each day's hunt.

* * * * *

(j) *Georgia and South Carolina—Savannah National Wildlife Refuge.*

* * *

(2) Hunting is permitted only on Tuesdays, Thursdays, and Saturdays until noon during the State waterfowl hunting season.

* * * * *

(n) *Iowa, Illinois, and Missouri—Mark Twain National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting is only permitted on the Big Timber Division, the Bear Creek Unit of the Gardner Division, and Turkey and Otter Islands.

(2) Only temporary wood or brush blinds are permitted.

(3) Blinds cannot be locked or otherwise sealed against public entry.

(4) Blinds are open to the public on a first-come, first-served basis if not occupied 30 minutes after the start of the legal shooting hours.

* * * * *

(q) * * *

(1) *Bogue Chitto National Wildlife Refuge.* Hunting of ducks, geese, coots, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Duck hunting is not permitted during the special teal season.

(ii) Hunting is permitted until noon each day.

(iii) Only temporary blinds are permitted.

(2) *D'Arbonne National Wildlife Refuge.* Hunting of ducks, coots, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted until noon each day.

(ii) Boats, decoys, and non-native blind materials must be removed from the refuge following each day's hunt.

(3) *Delta National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of ducks, geese, and coots is permitted only on Wednesdays, Thursdays, Saturdays, and Sundays until noon during the State duck season.

(ii) Hunting is not permitted during that portion of the State goose season that extends beyond the State duck season.

(iii) Blinds and decoys must be removed from the refuge following each day's hunt.

(iv) Snipe, rails, and gallinules may only be taken during the State duck season.

(4) *Lacassine National Wildlife Refuge.* * * *

(vi) Blinds must be spaced at least 150 yards apart.

(vii) Decoys and blinds must be removed from the refuge following each day's hunt.

(viii) Hunting is not permitted during that portion of the State goose season that extends beyond the State duck season.

(ix) Access into the marsh and ponds is by foot or boat only. Motorized boats may be used only in canals and bayous.

* * * * *

(s) * * *

(2) *Parker River National Wildlife Refuge.* Hunting of waterfowl and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and possess shells containing only steel shot.

(iii) Hunters may not use or possess more than 25 shells per day.

(iv) Hunters using Area B must set out a minimum of six waterfowl decoys and hunt within 50 yards of these decoys.

* * * * *

(v) * * *

(2) *Hillside National Wildlife Refuge.* Hunting of mourning doves, ducks, coots, snipe, and woodcock is permitted on disignated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Duck and coot hunting is permitted until noon each day.

(iii) Hunters must use and be in possession only of shells containing steel shot while duck and/or coot hunting.

(iv) Only portable and temporary blinds may be used.

(v) Dove hunting is permitted during the first two Saturdays of the State season, and the remainder of the first segment and the entire second segment of the season.

(3) *Mathews Brake National Wildlife Refuge.* Hunting of ducks, coots, snipe, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Duck and coot hunting is permitted until noon each day.

(iii) Hunters must use and be in possession only of shells containing steel shot while duck and/or coot hunting.

(iv) Only portable and temporary blinds may be used.

(4) *Morgan Brake National Wildlife Refuge.* Hunting of ducks, coots, snipe, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Duck and coot hunting is permitted until noon each day.

(iii) Hunters must use and be in possession only of shells containing steel shot while duck and/or coot hunting.

(iv) Only portable and temporary blinds may be used.

* * * * *

(6) *Panther Swamp National Wildlife Refuge.* Hunting of ducks, coots, snipe, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Duck and coot hunting is permitted until noon each day.

(iii) Hunters must use and be in possession only of shells containing steel shot while duck and/or coot hunting.

(iv) Only portable and temporary blinds may be used.

* * * * *

(x) * * *

(1) *Benton Lake National Wildlife Refuge.* Hunting of ducks, geese, tundra swans, and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Only nonmotorized boats are permitted.

(ii) Waterfowl hunting is not permitted after November 30.

* * * * *

(3) *Bowdoin National Wildlife Refuge.* Hunting of waterfowl, coots, sandhill cranes, and mourning doves is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters are required to check in and out of the refuge.

(ii) Air-thrust boats and boats with motors greater than 10 horsepower are not permitted.

* * * * *

(9) *Medicine Lake National Wildlife Refuge.* Hunting of ducks, geese, snipe, and doves is permitted on designated areas of the refuge.

(10) *Red Rocks Lake National Wildlife Refuge.* * * *

* * * * *

(aa) *New Jersey—Edwin B. Forsythe National Wildlife Refuge.* Hunting of rails, gallinules, waterfowl, and coots is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunters must use and possess shells containing only steel shot according to State regulation.

(2) All hunting blind materials, boats, and decoys must be removed at the end of each hunting day. Permanent and pit blinds are not permitted.

(3) Waterfowl hunters may not use or possess more than 25 shells per day in Hunting Areas A, B, and C in the Barnegat Division and in Hunting Unit 1 in the Brigantine Division.

(4) In Hunting Area B of the Barnegat Division, hunting is restricted to designated sites, with each site limited to one party of hunters. Access is by boat only. A minimum of six decoys per site is required.

(5) In Hunting Area C of the Barnegat Division, hunting is restricted to designated sites, with each site limited to one party of hunters. A permit is required on opening days, Saturdays, and holidays.

(6) Use of Hunting Unit 3 of the Brigantine Division is restricted to certified Young Waterfowl Program trainees from the close of the first portion of the split duck season through the second Saturday of the second protion of the split duck season.

* * * * *

(cc) * * *

(1) *Iroquois National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for waterfowl hunting.

(ii) Completion of the State waterfowl identification course is reuired.

(iii) Hunting is not permitted from March 1 through September 30.

(iv) Waterfowl hunters must use and possess shells containing only steel shot.

(v) Waterfowl hunters may not use or possess more than 15 shells per day.

(vi) Waterfowl hunters must provide and use a minimum of six decoys per hunter.

(vii) Waterfowl hunting is permitted from designated stands only, with a maximum of three hunters per stand.

(viii) Hunting must occur within 50 feet of a stand marker, unless actively pursuing crippled birds.

(2) *Montezuma National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Completion of the State waterfowl identification course is required.

(iii) Hunters must use and possess shells containing only steel shot.

(iv) Hunters may not use or possess more than 25 shells per day.

(v) Hunting parties are limited to a maximum of two hunters per group.

(vi) Motorless boats are required.

* * * * *

(ii) *Pennsylvania—Erie National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting is permitted on the refuge from September 1 through the end of February.

(2) Waterfowl hunters must use and possess shells containing only steel shot.

(3) Only motorless boats are permitted for waterfowl hunting. Boats and decoys must be removed from the refuge at the end of each day's hunt.

(jj) * * *

(2) *Carolina Sandhills National Wildlife Refuge.* * * *

(i) Dove and woodcock hunting is permitted only when the seasons for these species coincide with the State quail season.

* * * * *

(ll) * * *

(1) *Cross Creeks National Wildlife Refuge.* * * *

(ii) Hunting is permitted only on Saturdays and Sundays during the regular duck season.

* * * * *

(mm) * * *

(1) *Anahuac National Wildlife Refuge.* * * *

(iii) Hunting is permitted until noon.

* * * * *

(vi) The refuge unit formerly known as the Pace Tract is open to hunting every day of the early teal season and regular waterfowl season.

* * * * *

(oo) *Vermont—Missisquoi National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required to hunt in the Patrick Marsh-Charcoal Creek Controlled Hunding Area, the Junior Waterfowl Hunting Area, and the Saxe's Pothole-Creek and Shad Island Pothole Hunting Area.

(2) Hunters may not use or possess more than 25 shells per day on the Patrick Marsh-Charcoal Creek Controlled Hunting Area, the Junior Waterfowl Hunting Area, and the Saxe's Pothole-Creek and Shad Island Pothole Hunting Area.

(3) Boats are required for access to the permit areas.

(4) Hunters within the Patrick Marsh Controlled Hunting Area and the Junior Waterfowl Area must provide and use a minimum of six decoys and hunt within 50 feet of these decoys.

(5) Hunters within the Saxe's Pothole-Creek and Shad Island Pothole Hunting Area and the Maquam Swamp Hunting Area must hunt with one retriever per hunting party of up to two hunters per party.

(6) No permanent blind construction or blind staking is allowed in the Delta Lakeshore Hunting Area, the Saxe's Pothole-Creek and Shad Island Pothole Hunting Area, and the Maquam Swamp Hunting Area.

(7) Hunters must use and posses shells containing only steel shot.

(pp) *Virginia—Chincoteague National Wildlife Refuge.* Hunting of waterfowl is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required on the non-guided public hunting area.

(2) Compartments 1 to 4 are reserved for guided hunting only, with refuge-designated commercial guides.

(3) Public hunting is permitted only within 50 feet of a designated blind site, unless actively pursuing crippled birds.

(4) Permanent and pit blinds are not permitted, except in Compartments 1 to 4.

(5) Blind sites are limited to one party of hunters, with a maximum of four hunters per party.

(qq) * * *

(8) *Willapa National Wildlife Refuge.* * * *

(iv) Hunters may not use or possess more than 10 shells per day on the Riekkola Unit.

* * * * *

3. Section 32.22 is amended by revising paragraphs (a)(4)(ii) through (a)(4)(iv); revising paragraphs (d)(2)(ii) and (d)(2)(iii); adding new paragraphs (d)(2)(v) and (d)(2)(vi); revising paragraphs (d)(4)(ii) and (d)(4)(iii); adding new paragraphs (d)(4)(v) and (d)(4)(vi); revising paragraphs (d)(6)(ii) and (d)(6)(iii); revising paragraphs (g)(1) and (g)(2); revising paragraphs (h)(2) and (h)(3)(ii); revising paragraphs (l)(1) and (l)(2); revising paragraph (o)(3); revising paragraphs (q)(4) and (q)(6)(i); revising paragraphs (v)(2) through (v)(4) and paragraphs (v)(6) and (v)(7)(iv); revising paragraph (y)(1); revising paragraph (aa)(1)(i); revising paragraphs (bb)(1)(i) and (bb)(2); revising paragraph (cc)(2)(i);

adding a new paragraph (cc)(2)(iv) revising paragraph (dd)(1); redesignating paragraphs (ff)(9) and (ff)(10) as paragraphs (ff)(10) and (ff)(11), respectively; adding a new paragraph (ff)(9); adding a new paragraph (hh)(2)(iii); revising paragraph (hh)(3)(iv); adding a new paragraph (hh)(4)(iii); revising paragraphs (jj)(1) and (jj)(2); revising paragraph (kk)(2); and revising paragraphs (mm) as follows:

§ 32.22 Refuge-specific regulations; upland game.

(a) * * *

(4) *Wheeler National Wildlife Refuge.* * * *

(ii) Hunting of squirrel is permitted during the first two weeks of the State season only.

(iii) Hunting of raccoon and opossum is permitted during the last 28 days of the State season only.

(iv) Hunting of rabbits is permitted during the last two weeks of the State season only.

* * * * *

(d) * * *

(2) *Felsenthal National Wildlife Refuge.* * * *

(ii) Hunting of quail, squirrel, and rabbit is permitted only during the State seasons through Jaunary 31, except that it is not permittted during the refuge deer gun and muzzleloader hunts.

(iii) Hunting of raccoon and opossum is permitted only during the first five days and last five days of the State season.

* * * * *

(v) Firearms must be unloaded when transported or in refuge campgrounds.

(vi) Squirrel and rabbit hunting with dogs is permitted beginning January 1.

* * * * *

(4) *Overflow National Wildlife Refuge.* * * *

(ii) Hunting of quail, squirrel, and rabbit is permitted only during the State seasons through January 31, except that it is not permitted during the refuge deer gun and mussleloader hunts.

(iii) Hunting of raccoon and opossum is permitted only during the first five days and last days of the State season.

* * * * *

(v) Firearms must be unloaded when transported or in refuge campgrounds.

(vi) Squirrel and rabbit hunting with dogs is permitted beginning January 1.

* * * * *

(6) *White River National Wildlife Refuge.* * * *

(ii) Hunting of squirrel and rabbit is permitted from the first Saturday in October through October 31. Squirrel and rabbit may also be taken when their respective State seasons coincide with refuge deer archery and waterfowl hunts, but they must be taken with weapons legal for those hunts.

(iii) Hunting of raccoon and opossum is permitted for six days starting on the first Monday in December.

* * * * *

(g) *Delaware*—(1) *Bombay Hook National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on the South Upland Hunting Area.

(ii) Hunting is permitted from ½ hour before sunrise to ½ hour after sunset.

(iii) Hunting is not permitted from March 1 through August 31.

(2) *Prime Hook National Wildlife Refuge.* Hunting of rabbit, squirrel, quail, and pheasant is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on the North Hunting Area.

(ii) Hunting is permitted from ½ hour before sunrise to ½ hour after sunset.

(iii) Hunting is not permitted from March 1 through August 31.

(h) * * *

(2) *Lower Suwannee National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting on the Dixie County portion of the refuge will be in accordance with State regulations for the Perpetual Wildlife Management Area.

(ii) Hunting of squirrel, quail, rabbit, and armadillo only is permitted on the Levy County portion of the refuge from the day after the State general deer gun season ends through the last day of the State squirrel season.

(iii) Permits are required for hunting on the Levy County portion of the refuge.

(iv) Dogs are permitted for quail hunting only.

(3) *St. Marks National Wildlife Refuge.* * * *

(ii) Hunting is permitted beginning the third Friday in December through the last Sunday in January except on Christmas and New Year's Day.

* * * * *

(l) *Illinois, Iowa, and Missouri—Mark Twain National Wildlife Refuge.* * * *

(1) Hunting is permitted on the Big Timber and Gardner Divisions, and Turkey and Otter Islands.

(2) Hunting is permitted on the Bear Creek Unit of the Gardner Division during Illinois seasons. On the remainder of the Gardner Division, only squirrel hunting is permitted from the opening of the State season through September 30.

* * * * *

(o) * * *

(3) *Quivira National Wildlife Refuge.* Hunting of pheasant, bobwhite quail, squirrel, and rabbit is permitted on designated areas of the refuge.

* * * * *

(q) * * *

(4) *Delta National Wildlife Refuge.* Hunting of rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Huntjng is permitted from the day after the waterfowl season closes though the remainder of the State season.

(ii) Only shotguns are permitted.

(iii) Dogs are permitted.

* * * * *

(6) *Upper Ouachita National Wildlife Refuge.* * * *

(i) Hunting of raccoon and opossum is permitted only during January.

* * * * *

(v) * * *

(2) *Hillside National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon, and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel is permitted from the opening of the State season through December 15.

(iii) Hunting of rabbit is permitted during the entire State season, but the use of dogs for rabbit hunting is permitted only after the last day of the State deer season.

(3) *Mathews Brake National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon, opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel is permitted from the opening of the State season through December 15.

(iii) Hunting of rabbit is permitted during the entire State season, but the use of dogs for rabbit hunting is permitted only after the last day of the State deer season.

(4) *Morgan Brake National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon, and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel is permitted from the opening of the State season through December 15.

(iii) Hunting of rabbit is permitted during the entire State season, but the use of dogs for rabbit hunting is permitted only after the last day of the State deer season.

* * * * *

(6) *Panther Swamp National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon, and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel is permitted from the opening of the State season through December 15.

(iii) Hunting of rabbit is permitted from the opening of the State season through December 15 without dogs and during February with dogs.

(7) *Yazoo National Wildlife Refuge.*

* * *

(iv) Hunting of raccoon and opossum is permitted on four consecutive nights beginning the fourth Wednesday in January.

* * * * *

(y) *Nebraska*—(1) *Crescent Lake National Wildlife Refuge.* Hunting of ring-necked pheasant and sharp-tailed grouse is permitted on designated areas of the refuge.

* * * * *

(aa) * * *

(1) *Bitter Lake National Wildlife Refuge.* * * *

(i) Hunting of jackrabbit and cottontail rabbit is permitted only during the waterfowl season.

* * * * *

(bb) * * *

(1) *Iroquois National Wildlife Refuge.*

* * *

(i) Permits are required for night hunting of furbearers.

(2) *Montezuma National Wildlife Refuge.* Hunting of gray squirrel, cottontail rabbit, raccoon, and fox is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for night hunting of raccoons.

(ii) Hunting is permitted from the third Sunday in December through the close of the respective State seasons.

(iii) Shotguns only are permitted, except that .22 caliber firearms may be used to take raccoon.

(cc) * * *

(2) *Pee Dee National Wildlife Refuge.*

* * *

(i) Hunting of squirrel is permitted from the first day of the State season through the first Friday in November, except during any gun deer hunts.

* * * * *

(iv) Hunting of raccoon and opossum is permitted from the first day of the State season through the first Friday in November, except during any gun deer hunts.

(dd) * * *

(1) *Arrowwood National Wildlife Refuge.* Hunting of pheasant, grouse, Hungarian partridge, rabbit, and fox is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted from the day after the State deer gun season through the regular State late upland game season.

* * * * *

(ff) * * *

(9) *Sheldon National Wildlife Refuge.* Hunting of quail, grouse, and partridge is permitted on designated areas of the refuge.

(10) *Umatilla National Wildlife Refuge.* * * *

(11) *William L. Finley National Wildlife Refuge.* * * *

* * * * *

(hh) * * *

(2) *Carolina Sandhills National Wildlife Refuge.* * * *

(iii) Hunting of quail and rabbit is permitted only from the beginning of the State season to December 31.

(3) *Santee National Wildlife Refuge.*

* * *

(iv) Hunting of raccoon and opossum is permitted during the last ten days of the State season only.

(4) *Savannah National Wildlife Refuge.* * * *

(iii) Hunters must wear a minimum of 500 square inches of fluorescent orange colored material above the waistline.

* * * * *

(jj) *Tennessee*—(1) *Cross Creeks National Wildlife Refuge.* Hunting of squirrel is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted during the first two weeks of the State season.

(2) *Hatchie National Wildlife Refuge.* Hunting of quail, squirrel, rabbit, raccoon, and opossum is permitted on designated areas of the refuge subject to the following condition: Small game hunting is not permitted during the refuge deer archery and gun hunting season.

* * * * *

(kk) * * *

(2) *Hagerman National Wildlife Refuge.* Hunting of squirrel, rabbit, and quail is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters are required to check in and out of the hunt area.

(ii) Only shotguns and bows and arrows are permitted.

(iii) Upland game hunting is not permitted during the regular State waterfowl season.

* * * * *

(mm) *Vermont—Missisquoi National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(1) The use of rifles is not permitted on that portion of the refuge lying east of the Missisquoi River.

(2) Hunting is not permitted from January 1 through August 31.

* * * * *

4. Section 32.32 is amended by revising paragraph (a)(1)(iii); revising paragraphs (d)(2) and (d)(4); revising paragraphs (g)(1) and (g)(2); revising paragraph (h)(2)(iii); adding a new paragraph (h)(2)(v); revising paragraphs (h)(3) and (h)(5)(iii) through (h)(5)(vi); adding new paragraphs (h)(5)(viii) through (h)(5)(x); revising paragraphs (h)(6)(ii) and (h)(6)(iv); adding new paragraphs (h)(6)(v) through (h)(6)(viii); revising paragraphs (i)(4)(ii) through (i)(4)(iv); adding new paragraphs (i)(4)(vii) and (i)(4)(viii); revising paragraph (i)(5) introductory text; revising paragraph (j)(4); adding a new paragraph (j)(5); revising paragraph (n); adding new paragraphs (r)(1)(iii) and (r)(1)(iv); revising paragraph (r)(2); redesignating paragraphs (r)(4) through (r)(6) as (r)(5) through (r)(7), respectively; adding a new paragraph (r)(4); revising paragraph (t)(2); revising paragraphs (u)(1) and (u)(2); revising paragraphs (x)(2)(i) and (x)(2)(iii); adding a new paragraph (x)(2)(v); revising paragraphs (x)(3), (x)(4)(1), (x)(4)(ii), (x)(6)(i), and (x)(6)(ii); adding a new paragraph (x)(6)(v); revising paragraphs (x)(7)(iv) and (x)(7)(viii); revising paragraph (y)(1)(i); revising paragraph (aa)(1); revising paragraph (cc); revising paragraph (ee)(2); revising paragraphs (ff)(1), (ff)(2), and (ff)(3)(ii); adding new paragraphs (ff)(3)(v) and (ff)(3)(vi); adding a new paragraph (gg)(10)(iii); revising paragraph (gg)(13); redesignating paragraph (ii)(4) as paragraph (ii)(5); adding a new paragraph (ii)(4); revising paragraph (ll)(1); revising paragraph (mm)(1)(i); revising paragraph (mm)(2); revising paragraph (pp); and revising paragraphs (qq)(2) through (qq)(4) as follows:

§ 32.32 Refuge-specific regulations; big game.

(a) * * *

(1) *Choctaw National Wildlife Refuge.*

* * *

(iii) Hunting is permitted from the opening day of the State season through December 1.

* * * * *

(d) * * *

(2) *Felsenthal National Wildlife Refuge.* Hunting of white-tailed deer, turkey, and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted only from the opening day of the State season through January 31, except by special permit during quota gun deer hunts.

(iii) Muzzleloader hunting is permitted during the last consecutive Friday and Saturday in October only.

(iv) Modern gun hunting is permitted during the State Thanksgiving Holiday hunt only.

(v) Firearms must be unloaded when transported or in refuge campgrounds.

(vi) Feral hogs may be taken during daylight hours of any refuge hunt with weapons legal for that hunt.

* * * * *

(4) *Overflow National Wildlife Refuge.* Hunting of white-tailed deer, turkey, and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted only from the opening day of the State season through January 31, except by special permit during quota gun deer hunts.

(iii) Muzzleloader hunting is permitted during the last consecutive Friday and Saturday in October only.

(iv) Modern gun hunting is permitted during the State Thanksgiving Holiday hunt only.

(v) Firearms must be unloaded when transported or in refuge campgrounds.

(vi) Feral hogs may be taken during daylight hours of any refuge hunt with weapons legal for that hunt.

* * * * *

(g) *Delaware*—(1) *Bombay Hook National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) A permit is required on the Regular and Headquarters Deer Hunt Areas.

(ii) Hunting on the Headquarters Deer Hunt Area must be from designated stands only, unless actively tracking or retrieving wounded deer.

(iii) Only portable tree stands may be used and must be removed from the refuge each day.

(2) *Prime Hook National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting on Area A must be from designated stands only, unless actively tracking or retrieving wounded deer.

(iii) Hunting Areas A and B and the North Hunting Area are open to shotgun and muzzleloader hunting.

(iv) Archery hunting is permitted on the North Hunting Area only.

(v) Archery hunting is not permitted during the October primitive weapons season.

(vi) Only portable tree stands may be used and must be removed from the refuge each day.

(h) * * *

(2) *Lake Woodruff National Wildlife Refuge.* * * *

(iii) Two four-day blackpowder hunts are permitted beginning on the first and third Thursdays following the close of the archery hunt.

* * * * *

(v) Hunters must wear a visible outer garment of daylight fluorescent orange material.

(3) *Lower Suwannee National Wildlife Refuge.* Hunting of big game is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting on the Dixie County portion of the refuge will be in accordance with State regulations for the Perpetual Wildlife Management Area.

(ii) Hunting of white-tailed deer and feral hogs only is permitted on the Levy County portion of the refuge beginning the third Saturday in November and extending through the second Sunday in December, except on Thanksgiving.

(iii) Permits are required for hunting on the Levy County portion of the refuge.

(iv) Hunters must wear a visible outer garment of daylight fluorescent orange material.

* * * * *

(5) *St. Marks National Wildlife Refuge.* * * *

(iii) Only bearded turkeys may be taken.

(iv) Antlerless deer may not be taken on the Panacea Unit of the refuge during the archery hunt.

(v) A bucks-only deer, turkey, and hog hunt using bows and arrows and/or muzzleloaders is permitted for three consecutive days beginning the third Friday in November.

(vi) Two three-day bucks-only deer, hog, and turkey hunts are permitted on consecutive weekends beginning on the fourth Friday in November.

* * * * *

(viii) A hogs-only hunt is permitted for three consecutive days beginning the second Friday in December.

(ix) Turkey hunting is permitted for ten consecutive days beginning on the fourth Friday in March.

(x) Hunters must wear a visible outer garment of daylight fluorescent orange material.

(6) *St. Vincent National Wildlife Refuge.* * * *

(ii) Archery hunting is permitted for three consecutive days beginning on Thurday of the first full week in November.

* * * * *

(iv) A primitive weapons hunt is permitted for three consecutive days beginning on the second Thursday in December and for three consecutive days beginning on the last Thursday of the State modern gun season.

(v) Two deer of either sex may be taken during each hunt.

(vi) One turkey of either sex may be taken during the archery hunt and the December primitive weapon hunt.

(vii) During the archery and primitive weapon hunts, hunters must remain on their stands from one-half hour before sunrise to 9:00 a.m.

(viii) Hunters must wear a visible outer garmet of daylight fluorescent orange material during the primitive weapons hunt.

(i) * * *

(4) *Piedmont National Wildlife Refuge.* * * *

(ii) Archery hunting is permitted for 16 consecutive days beginning on the last Saturday in September.

(iii) Primitive weapons hunting of deer is permitted for three consecutive days beginning on the Thursday following the opening of the State deer firearms season. Deer taken on this hunt must have three or more points on one side or must be anterless.

(iv) A bucks-only deer hunt is permitted for three consecutive days beginning two weeks after the opening of the refuge primitive weapons hunt.

* * * * *

(vii) A general gun deer hunt is permitted on the two Saturdays following the bucks-only deer hunt and on the first Saturday in December.

(viii) Checking of bagged game is required.

(5) *Wassaw National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(j) *Georgia and South Carolina—Savannah National Wildlife Refuge.*

* * *

(4) Hunters must wear a minimum of 500 square inches of fluorescent orange colored material above the waistline.

(5) Two deer may be taken. Deer may be of either sex.

* * * * *

(n) *Illinois, Iowa, and Missouri—Mark Twain National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(1) Firearms hunting is permitted on the Bear Creek Unit of the Gardner Division. Firearms hunting is permitted on the remainder of the Gardner Division during part of the November firearms season only. Hunting is permitted from 6:30 a.m. to 3:00 p.m. A refuge permit is required.

(2) Archery hunting is permitted on the Bear Creek Unit of the Gardner Division. Archery hunting is permitted on the remainder of the Gardner Division during part of the Illinois archery deer season only. A refuge permit is required.

(3) Hunting is permitted on the Big Timber Division and on Turkey and Otter Islands during the State season.

* * * * *

(r) * * *

(1) *Bogue Chitto National Wildlife Refuge.* * * *

(iii) Bucks-only deer gun hunting is permitted on six consecutive days beginning the fourth Saturday of November.

(iv) Either-sex deer gun hunting is permitted on three consecutive days beginning on the Friday after Thanksgiving.

(2) *Catahoula National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Archery hunting is permitted.

(ii) Muzzleloader hunting for deer (bucks only) and unmarked feral hogs is permitted from January 2 through January 20.

(iii) Checking of bagged game is required.

* * * * *

(4) *Delta National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Archery hunting is permitted from the opening of the State season through October 31.

(ii) Only portable stands are permitted and they must be removed from the refuge after each day's hunt.

(5) *Lacassine National Wildlife Refuge.* * * *

(6) *Tensas River National Wildlife Refuge.* * * *

(7) *Upper Ouachita National Wildlife Refuge.* * * *

* * * * *

(t) * * *

(2) *Rachel Carson National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only shotgun and archery hunting are permitted.

(u) *Maryland*—(1) *Blackwater National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Handguns and breech-loading rifles are not permitted.

(iii) In the headquarters hunt area, hunters must remain within 30 feet of their stand, unless actively tracking or retrieving wounded deer.

(2) *Eastern Neck National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only one deer of either sex may be taken.

(iii) Only archery, shotgun, and muzzleloader hunting is permitted.

(iv) Loaded weapons are not permitted in parking areas or on blacktopped roads.

* * * * *

(x) * * *

(2) *Hillside National Wildlife Refuge.* * * *

(i) Permits are required.

* * * * *

(iii) General gun deer hunting is permitted on the third Thursday of December.

* * * * *

(v) Muzzleloader deer hunting is permitted for eight consecutive days beginning the first Saturday of the State season.

(3) *Mathews Brake National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted.

(4) *Morgan Brake National Wildlife Refuge.* * * *

(i) Only archery and primitive weapons hunting are permitted.

(ii) Permits are required.

* * * * *

(6) *Panther Swamp National Wildlife Refuge.* * * *

(i) Permits are required.

(ii) The youth deer hunt is permitted on the first day of the State either-sex deer season.

* * * * *

(v) General gun hunting for deer is permitted from the beginning of the State season through November 30 and from December 24 through December 31.

(7) *Yazoo National Wildlife Refuge.* * * *

(iv) Muzzleloader deer hunting is permitted during the first five days of the State season excluding Sunday and Monday.

* * * * *

(viii) Bag limits are one bearded turkey, and one deer for all deer gun hunts.

* * * * *

(y) * * *

(1) *Mingo National Wildlife Refuge.* * * *

(i) Only archery and primitive weapons hunting are permitted.

* * * * *

(aa) * * *

(1) *Crescent Lake National Wildlife Refuge.* Hunting of white-tailed deer, mule deer, and pronghorn antelope is permitted on designated areas of the refuge subject to the following condition: Checking of bagged game is required.

* * * * *

(cc) *New Jersey—Great Swamp National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunters must comply with State laws governing special deer permit hunts.

(2) All hunters must attend the refuge hunter orientation and show proof of completion of a refuge firearms proficiency test before hunting.

* * * * *

(ee) * * *

(2) *Montezuma National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted.

(ff) * * *

(1) *Great Dismal Swamp National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only shotguns, 20 gauge or larger, loaded with buckshot and/or rifled slugs, and bows and arrows, are permitted.

(iii) Dogs are not permitted.

(2) *Mackay Island National Wildlife Refuge.* Hunting of deer is permitted on

designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery and shotgun hunting are permitted.

(iii) Dogs are not permitted.

(iv) Shotgun hunters must hunt from designated stands.

(3) *Pee Dee National Wildlife Refuge.* * * *

(ii) Muzzleloader hunting is permitted the first Tuesday of the State (Anson County) muzzleloader gun season.

* * * * *

(v) Youth gun hunting is permitted on the first Saturday of the State (Anson County) gun season. During the youth deer hunt, only persons 15 years and under may carry, handle, or discharge firearms.

(vi) Gun hunting is permitted on the second Monday, Tuesday, Friday, and Saturday of the State (Anson County) gun season.

* * * * *

(gg) * * *

(10) *Lostwood National Wildlife Refuge.* * * *

(iii) Archery hunting is permitted through the day before the opening of the State waterfowl season, and it is permitted following the deer gun season.

* * * * *

(13) *Upper Souris National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(ii) * * *

(4) *Sheldon National Wildlife Refuge.* Hunting of deer and antelope is permitted on designated areas of the refuge.

(5) *William L. Finley National Wildlife Refuge.* * * *

* * * * *

(ll) * * *

(1) *Lacreek National Wildlife Refuge.* Hunting of white-tailed deer and mule deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(mm) * * *

(1) *Cross Creeks National Wildlife Refuge.* * * *

(i) Archery hunting is permitted during the first two weeks of the State archery season.

* * * * *

(2) *Hatchie National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for the firearms deer hunt and turkey hunt.

(ii) Checking of bagged deer taken during the firearms hunt is required.

(iii) Gun hunting is permitted on two consecutive days beginning on the fourth Saturday in October. One deer may be taken. Deer may be of either sex.

(iv) Archery hunting is permitted for the first 16 days of the State season. Two deer may be taken. Deer may be of either sex.

* * * * *

(pp) *Vermont—Missiquoi National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Only shotguns may be used on that part of the refuge east of the Missisquoi River during the State regular season.

(qq) * * *

(2) *Chincoteague National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Shotgun hunters must use rifled slugs only.

(iii) Dogs are not permitted.

(3) *Great Dismal Swamp National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) One deer of either sex may be taken.

(iii) Only shotguns, 20 gauge or larger, loaded with buckshot and/or rifled slugs, and bows and arrows, are permitted.

(iv) Dogs are not permitted.

(4) *Presquile National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) One deer of either sex may be taken.

(iii) Dogs are not permitted.

(iv) Only shotguns, 20 gauge or larger, loaded with buckshot and/or rifled slugs, and bows and arrows, are permitted.

(v) Shotgun hunters must remain on their assigned stand unless tracking or retrieving a wounded deer.

(vi) Archers must remain on their assigned stand from ½ hours before sunrise to 10:00 a.m., after which time they may hunt anywhere within the hunt area.

* * * * *

Dated: August 19, 1985.

P. Daniel Smith,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-21036 Filed 9-3-85; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 675

[Docket No. 40146-4171]

Foreign Fishing; Groundfish of the Gulf of Alaska; and Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason adjustments.

SUMMARY: NOAA announces the apportionment of amounts of Alaska groundfish to the domestic annual harvest (DAH) and total allowable level of foreign fishing (TALFF) under provisions of the fishery management plans (FMPs) for Groundfish of the Gulf of Alaska, and for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. Groundfish are apportioned according to the regulations implementing those FMPs. The intended effect is to assure optimum use of these groundfish by allowing the domestic and foreign fisheries to proceed without interruption.

EFFECTIVE DATE: August 29, 1985.

FOR FURTHER INFORMATION CONTACT: Janet Smoker (Resource Management Specialist, Alaska Region, NMFS), 907-586-7229.

SUPPLEMENTARY INFORMATION:

Background

The total allowable catches (TACs) for various groundfish species are established under the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area; optimum yields (OYs) for such species are established by the FMP for Groundfish of the Gulf of Alaska. These FMPs were developed by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act and are implemented by rules appearing at §§ 611.92 and 611.93 and Parts 672 and 675. The TACs and OYs are apportioned initially among DAH, reserves, and TALFF. Each reserve amount, in turn, is to be apportioned to DAH and/or TALFF during the fishing year, under §§ 611.92(c), 611.93(b), 672.20(c), and 675.20(b). In addition, surplus amounts of both components of DAH [DAP (domestic processed fish) and JVP (joint venture processed fish)] may be apportioned to TALFF during the fishing year under those same regulations.

The initial DAPs and JVPs for 1985 were based in part on the projected needs of the U.S. industry as assessed by a mail survey sent by the Director,

Alaska Region, NMFS (Regional Director) to fishermen and processors in September 1984. The Regional Director completed another survey in May 1985. The results of that survey indicate that more than half of the U.S. fisheries (except the Gulf of Alaska JVP fisheries) will occur during the second half of the year; therefore it is impossible to determine at this time what amounts of DAH, if any, will prove excess to the needs of U.S. fishermen and the reapportionment of any DAH to TALFF would be inappropriate. Reapportionment of DAH and any reserves not released by this action will be considered at a later date.

1. Bering Sea and Aleutian Islands Area

As soon as practicable after April 1, June 1, and August 1, or on other dates as are determined appropriate, the Secretary of Commerce apportions to DAH all or part of the reserve that he finds will be harvested by U.S. vessels during the remainder of the year and apportions to TALFF the remaining portion of the reserve. When the initial DAH and TALFF for 1985 were established (50 FR 11369, March 21, 1985), DAH and TALFF were supplemented with 31,890 mt from the initial 300,000-mt reserve, thereby reducing the reserve to 268,110 mt. The April inseason adjustment (50 FR 19946, May 13, 1985) supplemented DAH and TALFF by an additional 134,055 mt from the reserve, reducing it to 134,055 mt. The June inseason adjustment (50 FR 26213, June 25, 1985) supplemented DAH and TALFF by an additional 111,035 mt from the reserve, reducing it to 23,020 mt. This action supplements TALFF by an additional 6,440 mt from the reserve, reducing it to 16,580 mt. The changes are summarized in Table 1.

TABLE 1.—BERING SEA/ALEUTIANS REAPPORTIONMENTS OF TOTAL ALLOWABLE CATCH

Species	Figure	Current specification	This action	Revised specification
Pacific cod				
(TAC=220,000; EY=347,400).	DAP	100,000		100,000
	JVP	63,190		63,190
	TALFF	47,680	+6,440	54,120
Pacific ocean perch				
(Aleutians Area only).	DAP	3,300	−200	3,100
(TAC=3,800;	JVP	340	+200	540
EY=11,400)	TALFF	160		16
Total (includes other species not affected by this action)				
(TAC=2,000,000)	DAP	141,910	−200	141,710
	JVP	682,915	+200	683,115
	Reserve	23,000	−6,440	16,580
	TALFF	1,152,155	+6,440	1,158,595

Apportionments Within DAH

To provide for bycatches in joint venture fisheries in the Aleutian Islands area, 200 mt of Pacific ocean perch (POP) DAP is transferred to POP JVP. Based on the May industry survey and reports of catch to date, it is found that these fish will not be processed by U.S. processors in 1985.

Apportionments to TALFF

An amount of Pacific cod of 6,440 mt is transferred from the reserve to TALFF. Based on the May industry survey and reports of catch to date, it is found that these fish will not be taken by U.S. fishermen during 1985.

2. Gulf of Alaska

Apportionments to DAH and TALFF will be considered at a later date.

Comments and Responses

In accordance with §§ 611.92(c), 611.93(b), 672.20(c), and 675.20(b), aggregated reports on U.S. catches of Alaska groundfish and the processing of those groundfish were available for public inspection to facilitate informed public comment. In addition, those provisions afforded the public an opportunity to submit comments on the extent to which U.S. fishermen will harvest and the extent to which U.S. processors will process Alaska ground fish. One comment was received.

Comment: In the Bering Sea/Aleutians, the DAP and JVP for Pacific cod are sufficient; therefore, reserves should be allocated to the Pacific cod TALFF.

Response: The recommendation of the North Pacific Fishery Management Council, based on industry agreements, was to allow a 35,000-mt directed foreign longline fishery on Pacific cod in the Bering Sea Aleutian Islands area. This action increases the Pacific cod TALFF to 54,120 mt, which allows for that 35,000 mt plus sufficient bycatch for the foreign trawl fisheries.

The Regional Director has determined that 19,120 mt is necessary to provide a minimal bycatch of Pacific cod in the target trawl species currently in TALFF.

Classification

This action is taken under §§ 611.92 and 611.93 and Parts 672 and 675, and complies with Executive Order 12291.

In view of the prior notice provided in the authorizing regulation regarding the dates after which apportionment of reserves and reassessment of DAH are to occur, together with the need to avoid disruption of U.S. and foreign fisheries and to afford a reasonable opportunity to achieve OY, the Agency has determined that delaying the effective date of this notice would be impracticable, unnecessary, and contrary to the public interest.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations.

50 CFR Parts 672 and 675

Fisheries.

(16 U.S.C. 1801 *et seq.*)

Dated: August 28, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85-21057 Filed 8-29-85; 3:54 pm]

BILLING CODE 3510-22-M

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50 CFR Part 661

[Docket No. 50717-5123]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason adjustments and request for comments.

SUMMARY: The Secretary of Commerce (Secretary) announces an inseason adjustment in the number of allowable fishing days per week in the ocean recreational salmon fishery from the Queets River to Leadbetter Point, Washington. The Director, Northwest Region, NMFS (Regional Director), has determined, in consultation with the Washington Department of Fisheries (WDF) and the Pacific Fishery Management Council, that an increase to seven fishing days per week is necessary to allow the recreational fishery an opportunity to harvest its quotas of chinook and coho salmon before the season ending date of September 19, 1985. The intent of this action is to promote orderly management of the recreational salmon fishery.

DATE: Modification of allowable fishing days per week in the ocean recreational salmon fisheries from the Queets River to Leadbetter Point, Washington, is effective at 0001 hours Pacific Daylight Time (PDT), August 30, 1985, until modified superseded, or rescinded. Comments will be accepted until September 13, 1985.

ADDRESSES: Comments on this notice may be submitted to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115. The information upon which this notice is based is available for public inspection from 8:00 a.m. to 4:30 p.m. weekdays at the Northwest Regional Office, NMFS, Building 1, 7600 Sand Point Way, NE, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206–526–6150.

SUPPLEMENTARY INFORMATION: Final regulations to implement the framework amendment to the fishery management plan for the commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California were published in the **Federal Register** on October 31, 1984 (49 FR 43679). * * Under the provisions of the framework amendment, the 1985 management measures were published on May 2, 1985 (50 FR 18672). These regulations specify that five days of fishing per week, Sunday through Thursday, are allowed in the ocean recreational salmon fishery from the U.S.-Canada border to Cape Falcon, Oregon.

An emergency regulation was promulgated on August 7, 1985 (50 FR 31848) to allow inseason adjustments to the fishing week in one or more subareas between the U.S.-Canada border and the U.S.-Mexico border based on evaluation of catch and effort rates to be conducted at the end of the third and sixth weeks of the fishery. The sixth week of the recreational fishery from the Queets River to Leadbetter Point, Washington, ended on August 10, 1985.

Recreational landings in the subarea from the Queets River to Leadbetter Point, Washington, through August 11, 1985, totaled 12,925 chinook (55 percent of quota) and 43,689 coho (59 percent of quota). Although the scheduled season is about half over, catch and effort have traditionally fallen off sharply after the Labor Day weekend. An increase to seven fishing days per week is necessary, therefore, to allow this recreational fishery an opportunity to harvest its quotas of chinook and coho salmon before the season ending date of September 19, 1985.

Consideration has been given to salmon abundance, recreational quotas, catch and effort to date by all fishery participants, the average daily catch per fisherman, and predicted recreational fishing effort to the end of the scheduled season in this subarea. The Secretary has determined that this adjustment to the number of allowable fishing days per week is consistent with ocean escapement goals, conservation of the salmon resource, adjudicated Indian fishing rights, and the allocation schedule in the framework amendment. Further, the Secretary has determined that this inseason action is necessary to provide an opportunity for the receational fishery to harvest its allocated quotas of chinook and coho salmon.

Classification

The WDF has taken action consistent with this notice in State waters adjacent to the FCZ from the Queets River to Leadbetter Point, Washington.

Time does not permit a comment period prior to the date these management measures must be in effect. Comments will be accepted until September 13, 1985.

This action is taken under authority of 50 CFR Part 661 and complies with Executive Order 12291. As provided under § 661.23(e), all information relevant to this notice has been complied in aggregate form and is available for public review at the above address.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: August 28, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85–21058 Filed 8–29–85; 3:54 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 171
Wednesday, September 4, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 917

Fresh Pears, Plums, and Peaches Grown in California; Proposed Amendment of Pear Commodity Committee Districts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would reallocate the membership on the Pear Commodity Committee and re-group certain districts, for purposes of representation, within the production area. The changes reflect the relative quantity of pears shipped from the respective representation areas. This action was unanimously recommended by the Pear Commodity Committee established under this order.

DATES:

Comments due: Comments must be postmarked by September 19, 1985.

ADDRESS: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2069–S, U.S. Department of Agriculture, Washington, DC 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, DC 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This action has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

This proposed rule is issued under Marketing Order No. 917, regulating the handling of fresh pears, plums, and peaches grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Pear Commodity Committee, and upon other available information.

Under this order, the production area is divided into districts for purposes of representation on the committee. The number of members from each district and the grouping of the districts are based, insofar as practicable, upon the proportionate quantity of pears shipped from the respective districts during the preceding three fiscal years. Section 917.35(g) of the order authorizes the Pear Commodity Committee, with the approval of the Secretary, to redefine the districts into which the production area is divided or to change the representation in any area. Any such changes are to be based, so far as practicable, upon the proportionate quantity of fruit shipped from the respective representation area during the three preceding fiscal periods.

The production area is currently divided into six areas for purposes of grower representation on the 13-member Pear Commodity Committee. The proposal would reduce the number of representation areas to five by combining the Placer-Colfax District and El Dorado District with the representation area covering the balance of the State. Membership from the combined area would be reduced from two members to one member. The proposal would also increase from five to six the number of members representing the Lake District.

The reason for this proposal is to more accurately align the districts in accordance with the proportionate quantity of pears shipped. During the three year period (1982–84) pear shipments totaled 11,263 cars. During that period the Lake District accounted for 5,203 cars or 46 percent of the total. The Placer-Colfax and El Dorado districts together with the Tehachapi and Little Rock areas, which are the principal producing areas in the balance of the State, accounted for less than 5 percent of total fresh shipments during the specified period. For this reason it would be appropriate to realign the districts as proposed.

List of Subjects in 7 CFR Part 917

Marketing agreement and orders, California, Pears.

PART 917—[AMENDED]

1. The authority citation for 7 CFR Part 917 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–774.

2. The proposal is to amend § 917.121 by revising paragraphs (c), (d), and (e) to read as follows:

§ 917.121 Changes in nomination of Pear Commodity Committee members.

* * * * *

(c) Lake District, six nominees.

(d) Mendocino District and North Bay District, two nominees.

(e) Place-Colfax District and El Dorado District, and all of the production area not included in paragraphs (a) through (d) of this section, one nominee.

Dated: August 21, 1985.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–20336 Filed 9–3–85; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 920

Kiwifruit Grown in California; Proposed Inspection Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: The proposal would essentially require kiwifruit shipped after January 14 of any fiscal year to be reinspected prior to shipment if the fruit is not shipped within 14 days of the date when inspection was made. It is designed to provide for orderly marketing of kiwifruit for the benefit of producers and consumers.

DATE: Comments must be postmarked by September 19, 1985.

ADDRESS: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2069–S, U.S. Department of Agriculture, Washington, DC 20250. Two copies of all written material shall be submitted, and will be made available for public

inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, DC 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated as "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The proposed rule is issued under the marketing agreement and Order No. 920 (7 CFR Part 920) regulating the handling of kiwifruit grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal is based on the recommendations of the Kiwifruit Administrative Committee (hereinafter referred to as the "committee") and other available information.

The Kiwifruit Administrative Committee met on June 15, and unanimously recommended inspection requirements of the 1985–1986 season. The proposal would require that kiwifruit inspected and certified as meeting applicable grade, size, quality or maturity requirements prior to January 1 of each year shall not be shipped later than January 14, unless such kiwifruit is reinspected for condition (e.g. bruising, decay, ripeness). The proposal would also require that kiwifruit inspected and certified on or after January 1 of each year and not shipped within 14 days following the date of inspection shall be reinspected for condition prior to shipment. This proposal is in accordance with § 920.55(b) of the order which provides that the committee may, with the approval of the Secretary, establish a period prior to shipment during which inspection must be performed.

The kiwifruit harvest is expected to begin about October 1, 1985. Kiwifruit packed at the beginning of the season may be stored for several months without appreciable deterioration in quality. However, as the season progresses the condition of kiwifruit held in storage tends to deteriorate. The committee reports that by January 1 kiwifruit which is not shipped within 14 days of the date of inspection should be reinspected for condition to assure shipment of good quality fruit to consumers.

The proposed inspection requirements recognize the fact that kiwifruit are perishable and it is likely that kiwifruit which is inspected prior to storage will undergo changes in condition when the fruit is removed from storage. The committee has recommended establishment of a maximum time for which an inspection certificate is valid. The proposed requirements would apply to shipments of kiwifruit whenever quality regulations are in effect pursuant to § 920.52 or § 920.53 of the order.

The proposed rule provides a 15-day comment period. All comments postmarked within this period will be considered prior to the issuance of any final rule.

List of Subjects in 7 CFR Part 920

Marketing agreements and orders, Kiwifruit, California.

PART 920—[AMENDED]

1. The authority citation for 7 CFR Part 920 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. The proposal is to add a new § 920.155 to read as follows:

§ 920.155 Inspection requirement.

Any kiwifruit which is inspected and certified as meeting grade, size, quality or maturity requirements in effect pursuant to § 920.52 or § 920.53 prior to January 1 of each fiscal year, as defined in § 920.7, and not shipped by January 14 of such fiscal year shall be reinspected prior to shipment. Any kiwifruit which is inspected and certified on or after January 1 of each fiscal year and not shipped within 14 days following the date of inspection shall be reinspected prior to shipment. Any kiwifruit which is reinspected must be certified as meeting grade, size, quality or maturity requirements in effect pursuant to § 920.52 or § 920.53.

Dated: August 28, 1985.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–21017 Filed 9–3–85; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR PART 1135

[Docket No. AO–380–A5]

Milk in the Southwestern Idaho-Eastern Oregon Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreeement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking

SUMMARY: This hearing is being held to consider serveral proposals to amend the Southwestern Idaho-Eastern Oregon milk order. The principal proposals would reduce the pooling standards for distributing plants and supply plants, and relax diversion limits and "touch-base" requirements for producer milk. Proponent contends that the modifications are needed to reflect changed marketing conditions.

DATE: The hearing will convene at 9:30 a.m., on October 16, 1985.

ADDRESS: The hearing will be held at The State House Inn, Majestic Room, 981 Grove, Boise, Idaho 83702.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at The State House Inn, Majestic Room, 981 Grove, Boise, Idaho 83702, beginning at 9:30 a.m., on October 16, 1985, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southwestern Idaho-Eastern Oregon marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, to hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96–354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is

independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

List of Subjects in 7 CFR Part 1135

Milk marketing orders, Milk, Dairy products.

The authority citation for Part 1135 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674)).

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agricuture.

Proposed by Dairymen's Creamery Association, Inc.

Proposal No. 1

Revise § 1135.7(a)(2) to change the minimum route disposition requirment for pool distributing plants from 40 percent to 25 percent.

Proposal No. 2

Revise § 1135.7(b) to change the minimum percentage of recipts a supply plant is required to transfer to pool distributing plants from 40 percent to 25 percent, and to delete the language "including producer milk diverted from the plant by the plant operator but".

Proposal No. 3

Revise § 1135.(f)(2) to change the requirement that a dairy farmer's milk must be phyically received at a pool plant for one day's production in each of the months of September through February in order to be eligible for unlimited diversions to a requirement that one day's production must be physically received at a pool plant for three consecutive months on a one-time basis. It the producer's milk were not associated with the market for 60 consecutive days, his milk would have to be requalifed.

Proposal No. 4

Revise § 1135.13(f)(3) to increase the maximum percentage of a cooperative's milk that may be diverted to nonpool plants from 70 percent in the months of September through February and 80 percent in other months to 80 percent in all months.

Proposal No. 5

Revise § 1135.13(f)(4) and § 1135.13(f)(5) to conform with Proposal No. 4.

Proposal No. 6

Continue the suspension of Paragraphs (f)(2) and (f)(3) in § 1135.13 until this proceeding is completed. Paragraph (f)(2) requires that one day's production of each dairy farmer be physically received at a pool plant during each month of September through February. Paragraph (f)(3) limits the amount of a cooperative's total milk supply that may be moved directly from farms to nonpool plants and still be priced under the order.

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 7

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Frank Sheckarski, P.O. Box 23606, Portland, Oregon 97223, or from the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decision process are prohibited from discussing the merits of the hearing on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Southwestern Idaho-Eastern Oregon Marketing Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on August 29, 1985.

James C. Handley,

Administrator.

[FR Doc. 85–21055 Filed 9–3–85; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85–CE–29–AD]

Airworthiness Directives; Mooney Models M20 and M20A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD) applicable to Mooney Models M20 and M20A airplanes which would supersede AD 76–15–01, Amendment 39–2673. The AD currently requires certain inspections of the wooden wing and empennage structure. Subsequent to the issuance of AD 76–15–01, the FAA has determined that these existing wooden structure inspection requirements need to be expanded. The proposed AD would require more detailed repetitive inspections and proof load testing of the wooden primary structure and repair or replacement as necessary thereby precluding structural failure.

DATES: Comments must be received on or before December 9, 1985.

Compliance: As prescribed in the body of the proposed AD.

ADDRESSES: Mooney Service Bulletin (S/B) M20–170A, dated February 24, 1969, S/B M20–29, dated December 4, 1957, and S/B M20–67, dated February 15, 1960, may be obtained from Mooney Aircraft Corporation, Post Office Box 72, Kerrville, TX 78028 or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 85–CE–29–AD, Room 1558, 601 East 12th Street, Kansas City, MO 64106. Comments may be inspected at Room 1558 between 7:30 a.m. and 4:00 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Garry D. Sills, Aerospace Engineer, Airplanes Certification Branch, ASW–150, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101; Telephone (817) 877–2073.

SUPPLEMENTARY INFORMATION:

Comments Invited:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and emergency aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket, Federal Aviation Administration, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, MO 64106, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Discussion

AD 76–15–01, applicable to Mooney Models M20 and M20A airplanes, requires certain inspections of the wooden wing and empennage structure. Subsequent to the issuance of AD 76–15–01, the FAA learned of an accident involving wing structural separation on a wooden Mooney Model M20A airplane. This accident resulted in two fatalities. The results of the investigation of this accident indicate in part, that undetected deterioration of the wood structure may have contributed to the accident. The bonded and glued type of construction used on Mooney Models M20 and M20A airplanes results in an airplane structure that is difficult to inspect. In addition, structural deterioration can result in a critical safety hazard if not detected and repaired. Accordingly, the FAA has determined that more detailed inspections of the empennage and wing structures, wooden intercostals, flap-hinge brackets and aileron hinge brackets are essential for the safe operation of these airplanes. The inspection and proof loading proposed in this AD would supersede and expand the requirements of AD 76–15–01. The reporting requirement of the proposed AD has been cleared by OMB No. 2120 1156.

There are approximately 352 privately owned airplanes affected by the proposed AD. The average cost of compliance with proposed requirements for initial inspections is estimated to be $1,200 per airplane, for a total cost of $492,800 to the private sector.

Therefore, I certify that this action (1) Is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Mooney Aircraft Corporation: Applies to Models M20 and M20A (all serial numbers) airplanes certificated in any category.

Compliance: As indicated in the body of the AD.

To preclude structural failure due to deteriorated wooden structures, accomplish the following:

(a) Within the next 30 calendar days after the effective date of this AD and each 12 calendar months thereafter, accomplish the visual and nondestructive inspections, and proof load tests specified in paragraphs (d), (e), and (f) of this AD and, prior to further flight, repair all discrepancies found.

(b) Within the next six calendar months after accomplishment of the inspections required by paragraph (a) of this AD and each 12 calendar months thereafter, accomplish the visual inspections specified in paragraph (g) of this AD and, prior to further flight, repair all discrepancies found.

(c) The initial inspections required by paragraph (a) of this AD are not required if the requirements of AD 76–15–01 have been accomplished within the 12 calendar months preceding the effective date of this AD. The repetitive 12 month calendar inspections specified in paragraph (a) of this AD are required at 12 month intervals from accomplishment of AD 76–15–01.

(d) On airplanes not equipped with an all-metal empennage, visually inspect and modify the empennage and supporting structure as follows:

(1) Apply proof loads to the vertical fin spar as shown in Figure 1 of this AD. Apply the load to the right side and then to the left side. Apply proof loads to the rudder hinges of the fin as shown in Figure 3 of this AD. Apply hinge proof loads to the right side and then to the left side.

(2) Apply the proof loads to the vertical fin spar and rudder hinges as shown in Figures 1 and 3 of this AD. Apply the loads in one direction only during each 12 month inspection cycle by applying the loads to the right side at the end of the first interval and to the left side at the end of the second interval and alternating load direction similarly thereafter.

(3) If the empennage fails during the proof loading specified in paragraphs (d)(1) or (d)(2) of this AD, prior to further flight replace the wood empennage with an all-metal empennage in accordance with the instructions contained in Mooney Service Bulletin (S/B) Kit M20–170–1. The empennage is considered to have failed when complete separation of the vertical fin from the horizontal stabilizer occurs, if fin spar cracks occur, if any hinge separates or loosens from the fin, if other wood failures occur, if glue joint failures occur, or if permanent deformation occurs as shown in Figure 2 of this AD.

(4) If fin failure did not occur during the proof load application specified in paragraphs (d)(1) and (d)(2) of this AD, prior to further flights:

(i) Modify the vertical fin in accordance with paragraphs IB and IC of Mooney S/B M20–170A, dated February 24, 1969, unless previously accomplished.

(ii) Inspect the empennage in accordance with Mooney S/B M20–170A, dated February 24, 1969, Part IA and Part II, and repair all defects found.

(5) The inspection and modification requirements of paragraphs (d)(1) through (d)(4) above are not required on airplanes modified with all-metal empennage installed per Mooney S/B Kit M20–170–1.

(e) Visually inspect and proof load test the wing as follows:

(1) Remove the wing to fuselage fairings and fillets.

(2) Remove all the wing and center sections access doors and panels. (Refer to Figure 5 of Mooney Service Bulletin M20–170A.)

(3) Remove the sealing tape at the wing-fuselage joint.

(4) Inspect the areas around the fittings for evidence of deterioration or joint separation and prior to further flight, repair all defects found.

(5) Remove the rear seat and auxiliary fuel tank for access to the wing center section.

(6) Disconnect and remove the wing flaps and ailerons.

(7) Inspect the flap and aileron attach bolts, bearings, bushings, and hinge fitting attach bolts and bushings, for evidence of rust,

corrosion, and wear, and prior to further flight, repair or replace all defective parts.

(8) Visually inspect the wood end-grain surrounding bolt holes for evidence of rust, discoloration, deterioration, and evidence of moisture accumulation at the trailing edges of the wings and prior to further flight, repair all defects found.

(9) Drain and remove the wing fuel tanks for access to the wing center section.

(10) Test the wooden intercostals that support the flap hinge brackets by applying proof loads to the flap wing support brackets as shown in Figure 4 of this AD. Apply the loads perpendicular to the wing chord plane.

(11) Test the conditions of the rear spar at the points where the aileron is attached by applying proof loads to the aileron hinge support brackets as shown in Figure 4 of this AD. Apply these loads perpendicular to the wing chord plane.

(12) If any relative motion of the tested components is observed during the tests specified in paragraphs (e)(11) and (e)(10) above, investigate further and prior to further flight repair all defects found.

(f) Nondestructively test the wing as follows:

(1) Visually inspect the rear stub spar for glue bond separations, water stains, and wood rot. If these inspections identify any questionable areas in which possible deterioration may exist in the concealed spar caps, prior to further flight determine the condition of the internal spruce core in accordance with paragraph (f)(9) of this AD and repair all defects found. See Note 1 of this AD.

(2) Visually inspect the main spar from the fuselage out to wing station 59.25 for glue bond separations, water stains, and wood rot. If these inspections identify any questionable areas in which possible deterioration may exist in the concealed spruce caps, prior to further flight determine the condition of the internal spruce core in accordance with paragraph (f)(9) of this AD and repair all defects found. See Note 1 of this AD.

(3) Visually inspect the accessible interior of the wing using a flashlight and mirror for wood decay, water and/or wood stains, pooled dust/dirt which may indicate evidence of previous standing water, rust or corrosion on metallic surfaces, wood discoloration, and detectable moisture. Prior to further flight repair all defects found. See Note 1 of this AD.

(4) Inspect the exterior surfaces of the wing, including the wheel well, for the following and prior to further flight repair all defects found. See Note 1 of this AD.

(i) Indications that the wood immediately below the fabric is soft or contains excessive moisture (i.e., swollen). Soft wood may be located and/or confirmed by depressing the wing's surface in the vicinity of the area in question with a rounded, blunt instrument and comparing its hardness to that of good wood. Note that any areas being compared must have identical substructure.

(ii) Indications that the fabric/paint is delaminating from the wood surface (bubbles, discoloration, boils, soft spots and other surface flaws).

(ii) Cracks or breaks in the paint which could allow water to enter the wing.

(iv) Any other exterior damage which would allow water to penetrate the fabric/paint barrier and enter the wood.

(5) Inspect all drain holes on the bottom of the wing to ensure they are completely open and free of burrs and/or pieces of fabric, and prior to further flight, repair all defects found.

(6) Visually inspect the fuel scupper areas for sealant condition between between scupper boxes and wing structure. Prior to further flight repair any defects found.

(7) Visually inspect aileron and flap fabric in accordance with Mooney S/B M20-29, dated December 4, 1957 and prior to further flight repair any defects found.

(8) Visually inspect the main landing gear wheel well area in accordance with Mooney S/B M20-67, dated February 15, 1960, and prior to further flight repair any defects found.

(9) If the inspections specified in paragraphs (f)(1) and (f)(2) of this AD identify any questionable areas, test these areas by using one or more of the following; and prior to further flight repair any defects found:

(i) Test for soft/decayed wood with a sharp probe such as an awl or sharp pocket knife.

(ii) Tests for moisture content may be made by using a suitable resistance type moisture meter (Model G-2 Delmhorst Instrument Company, 607 Cedar Street, Boontown, New Jersey 07005) or equivalent. Moisture contents exceeding approximately 25% are excessive and indicate failure of the coverings and coatings to protect the wood structure from contacting and absorbing moisture.

(iii) To determine if the spars have decay near the top and/or bottom surface, drill a ¼ inch diameter hole in the wing skin (⅛ inch deep maximum outboard of WS 148 or ⅛ inch deep maximum inboard of WS 148) to gain access to the wing spar flange/cap. Caution: Do not penetrate spruce wing flange/cap material and do not drill the wing skin inboard of WS 23. Holes outboard of WS 23 may be drilled by using a ¼ inch drill bit sharpened so that its point angle is very flat and using a stop which prevents it from penetrating to a depth greater than the thickness of the wing skin. Test the drill bit on a separate piece of plywood to insure that it cuts clean and penetrates the proper amount. Inspect the spruce spar material for soft/decayed wood visually and with a sharp probe such as an awl or sharp pocket knife. If the visual/probing inspection indicates the spruce spar material is good, the ¼ inch diameter holes drilled in the wing skin must be suitably filled using either an epoxy adhesive/filler or by fabricating a hard wood plug and gluing it into the hole in the wing skin using a water resistant adhesive. Apply fabric patches over the plugged holes in accordance with Part III of Mooney Service Bulletin No. M20-170A.

(g) Inspect the wing and empennage as follows and prior to further flight repair all defects found:

(1) Inspect the emennage in accordance with Part IIA of Mooney S/B M20-170A, dated February 24, 1969.

(2) Inspect the wing in accordance with Mooney S/B M20-170A, dated February 24, 1969, Part III items 8, 9, and 10.

(3) If wood or glue joint deterioration is detected during the above inspections, accomplish additional inspections in accordance with Mooney S/B M20-170A, dated February 24, 1969, Parts IA, II, and III.

(h) If significant structural repair of the wing main spar and stub spar, or any area of the emennage is found necessary as a result of the inspections and tests of the preceding paragraphs, contact Mooney Aircraft Corporation, Post Office Box 72, Kerrville, TX 78028; Telephone (512) 896-6000, the local Mooney Aircraft Repair Center, or FAA Airplane Certification Office, ASW-150, before proceeding further. Do not attempt to design primary structural repairs for the wing or empennage without consulting Mooney Aeronautical Structural Engineers and FAA Aircraft Certification Office, ASW-150.

(i) Within 30 days after accomplishment of any inspection required by this AD report in writing all defects found as a result of the requirements and inspections of this AD to the Manager, Airplane Certification Branch, ASW-150, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101; Telephone (817) 877-2073. This report should include the dates of the inspection, the airplane serial number and registration number, owner's name and address, is the airplane equipped with a wooden or metal empennage, and a brief summary of the inspection results. Negative findings must also be reported. (Reporting approved by the Office of Management and Budget under OMB No. 2021-1156).

(j) An equivalent method of compliance with this AD may be used if approved by the Manager, Airplane Certification Branch, ASW-150, FAA, Southwest Region, Post Office Box 1689, Forth Worth, TX 76101; Telephone (817) 877-2073.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Mooney Aircraft Corporation, Post Office, Box 72, Kerrville, TX 78208, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, MO 64106.

Note 1.—The surface features described in the paragraphs of this AD may be accentuated by illuminating the surface with a light source at a shallow angle. The following technique may be used by an experienced inspector to detect soft and/or decayed wood in the wing spars. Tap the wing directly above and below the spars with a small rounded blunt instrument approximately the size of a small pocket knife. Start at the outboard end and move inboard, listening to the sound generated by the wing. The sound quality will change slowly. If the change is abrupt or if the sound is not resilient, the wood directly below the surface may have decay.

Note 2.—Shelter—Owners and operators are encouraged to shelter the airplanes, to keep the airplane out of rain storms, and to protect the fabric surface from the harmful and deteriorating effects of the sun.

Note 3.—Maintenance—Owners and operators are encouraged to be selective in who performs maintenance on their aircraft. Only personnel extremely experienced in wood aircraft inspection and repair should be contacted.

Note 4.—The inspection intervals required by this AD differ from the inspection intervals shown in Mooney Service Bulletin No. M20–170A.

Note 5.—Repairs to primary and secondary structure may be accomplished with reference to:

(A) FAA AC 43–13–1A: Acceptable Methods, Techniques and Practices AIRCRAFT INSPECTION AND REPAIR, Department of Transportation, Federal Aviation Agency 1972; availble through the Government Printing Office.

(B) ANC–18: Design of Wood Aircraft Structures, Chapter 4, Detail Structural Design Munitions Board Aircraft Committee June, 1951.

(C) Mooney Aircraft Corporation Engineering Drawings: the specific drawings required will depend on the affected structural components.

(D) Mooney Service Bulletin M20–170A dated February 24, 1969. Contact your Authorized Mooney Service Center or the listed FAA contact for assistance.

This AD supersedes AD 76–15–01, Amendment 39–2673.

Issued in Kansas City, MO, on August 26, 1985.

Donald J. Schneider,

Acting Director, Central Region.

BILLING CODE 4910–13–M

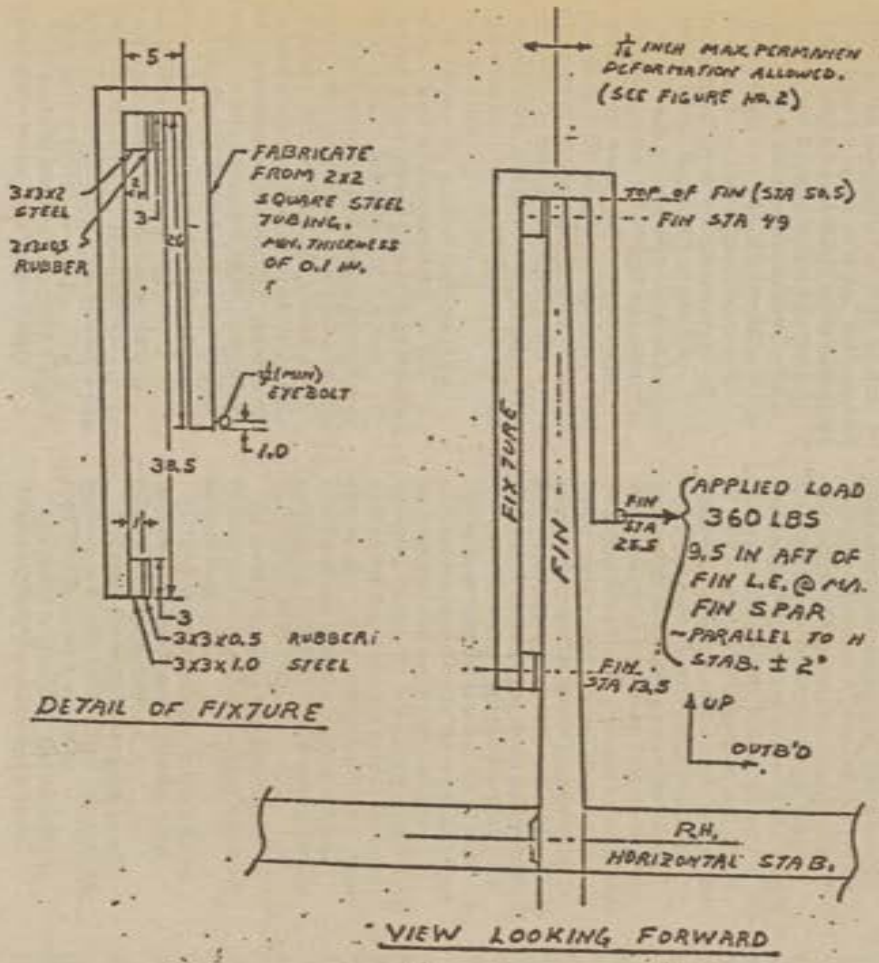


FIGURE NO. 1 - APPLICATION OF FIN SIDE PROOF LOAD ON MAIN SPAR

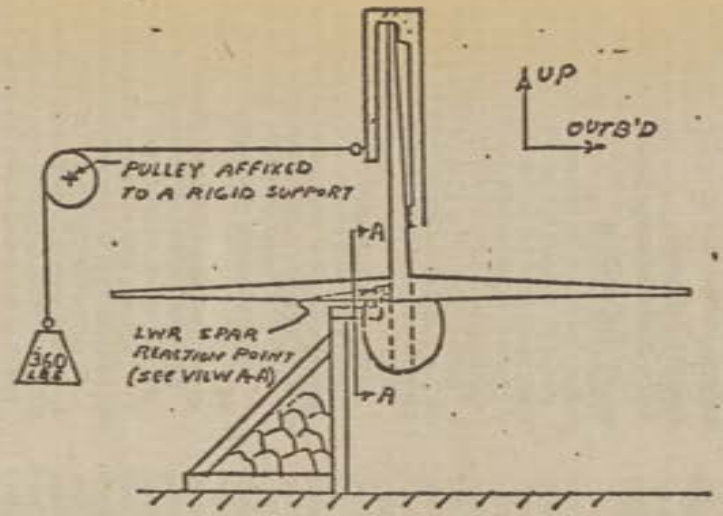
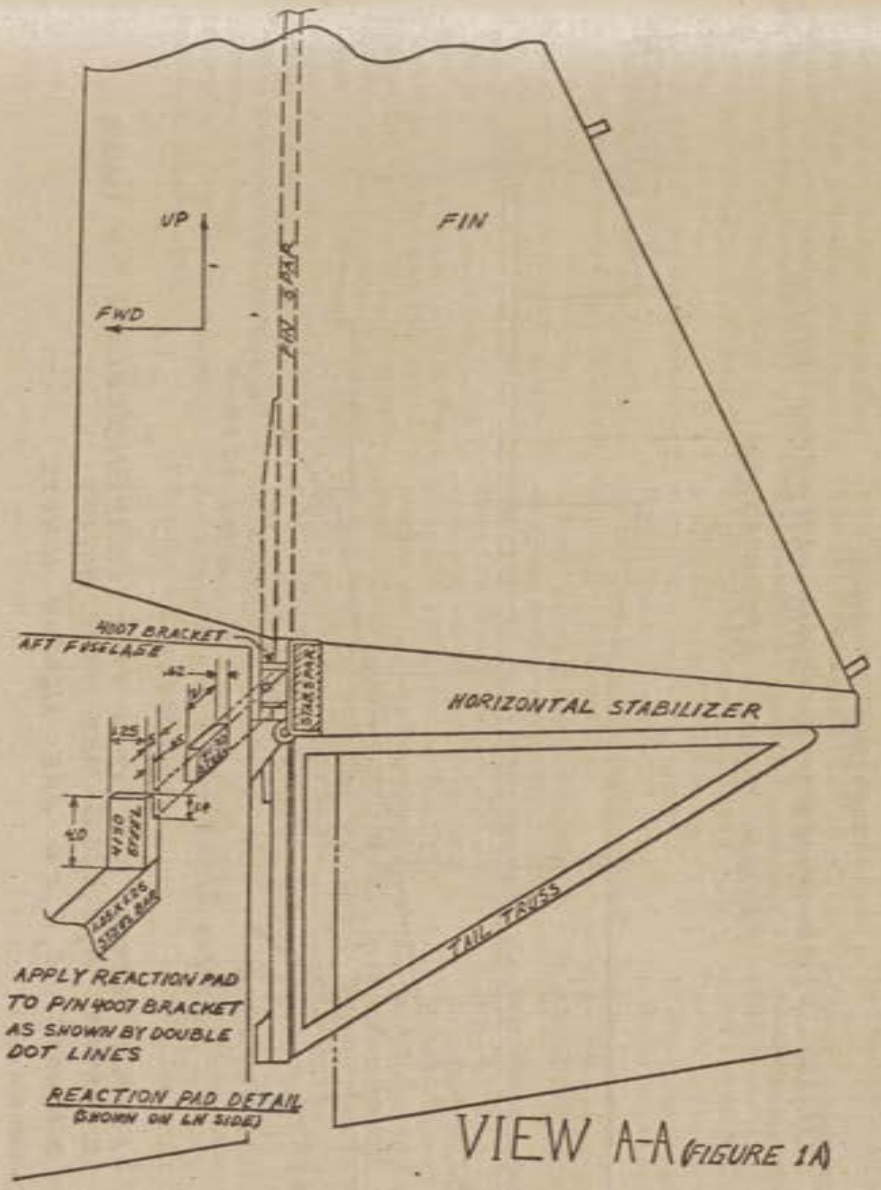


FIGURE 1A

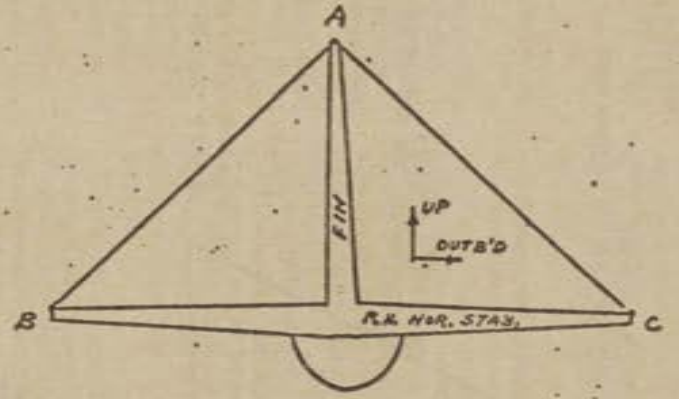
RECOMMENDED FIN PROOF LOAD METHOD (INCLUDING LOWER RESTRAINT)



VIEW A-A (FIGURE 1A)

NOTES:

1. MARK A POINT 'A' ON THE FIN TIP
2. MARK POINTS 'B' AND 'C' ON THE HORIZONTAL STAB. TIPS
3. MEASURE THE DISTANCES 'AB' AND 'AC' BEFORE AND AFTER APPLICATION OF LOADS SHOWN BY FIG. NO. 1
4. IF THE DISTANCE 'AB' MEASURED AFTER LOAD APPLICATION VARIES BY MORE THAN $\frac{1}{16}$ INCH FROM THE DISTANCE 'AB' MEASURED BEFORE LOAD APPLICATION, FAILURE IS CONSIDERED TO HAVE OCCURRED. A VARIATION OF MORE THAN $\frac{1}{16}$ INCH IN THE TWO 'AC' MEASUREMENTS ALSO CONSTITUTES FAILURE



VIEW LOOKING FORWARD

FIGURE NO. 2 - FIN PERMANENT DEFORMATION LIMITS

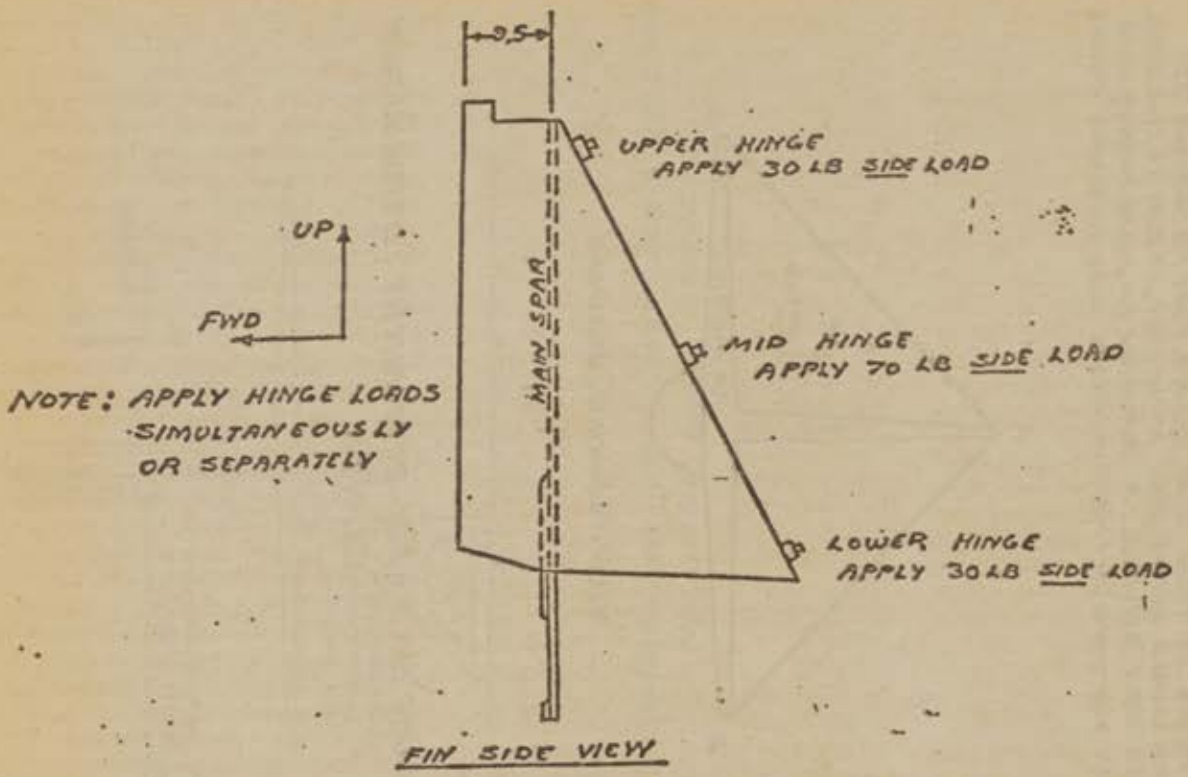
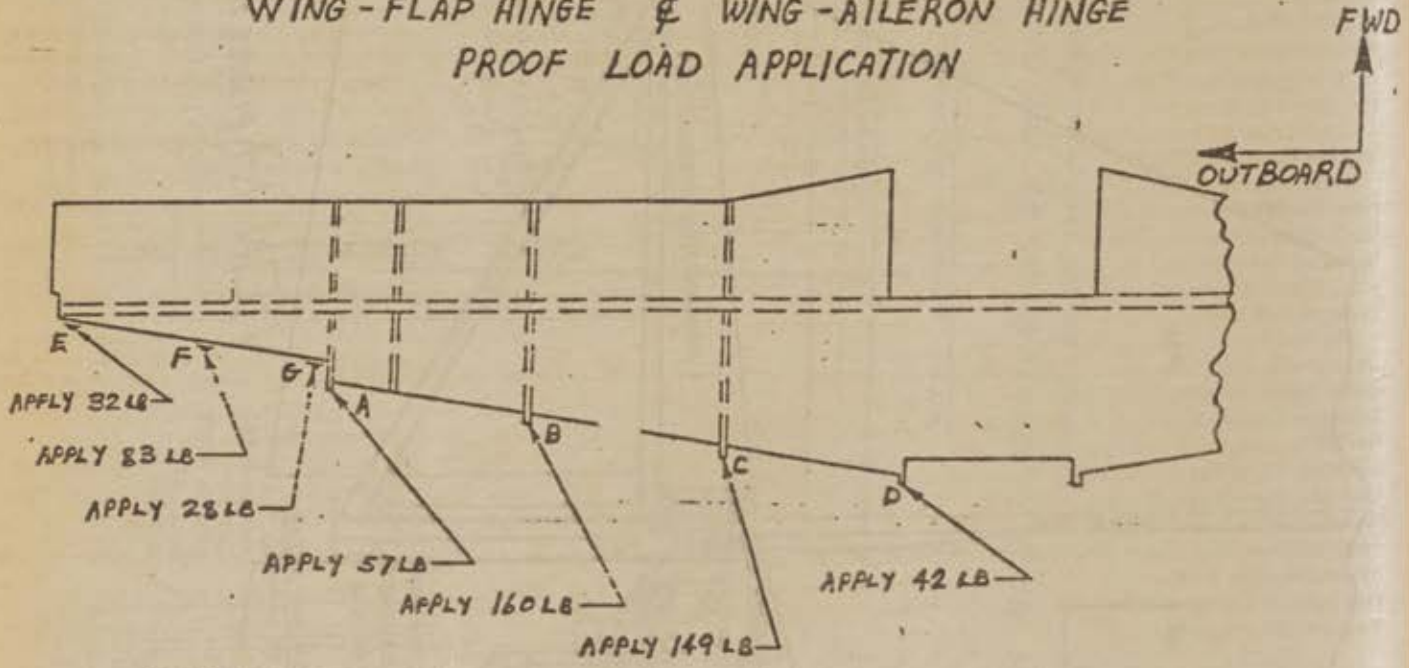


FIGURE NO. 3 - FIN-RUDDER HINGE SIDE PROOF LOAD APPLICATION

FIGURE NO 4
WING - FLAP HINGE & WING - AILERON HINGE
PROOF LOAD APPLICATION



NOTE: 1. APPLY LOADS ONE AT A TIME PERPENDICULAR TO WING
2. HINGES A, B, C, + D ARE FLAP HINGES
3. HINGES E, F, + G ARE AILERON HINGES

[FR Doc. 20980 Filed 9-3-85; 8:45 am]
BILLING CODE 4910-13-C

14 CFR Part 39

[Docket No. 83-ANE-15]

Airworthiness Directives; Rolls-Royce, Limited, Spey 555-15, -15H, -15N, and -15P Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would impose reduced retirement life for all stage 12 high pressure compressor disks, stage 12 high pressure compressor rotor seals, and low pressure compressor drive shafts (Pre-Mod. 4927) on Rolls-Royce, Limited, Spey 555-15, -15H, -15N, and -15P turbofan engines in accordance with Rolls-Royce Mandatory Service Bulletin (SB) No. Sp72-969, Revision 1. The proposed AD is prompted by a recalculation of the maximum approved cyclic life using current in-service flight cycle profiles. This recalculation has shown a requirement to reduce the maximum cyclic life of these components due to a reduction in low cycle fatigue capabilities.

DATES: Comments must be received on or before November 15, 1985.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 83-ANE-15, 12 New England Executive Park, Burlington, Massachusetts 01803 or delivered in duplicate to Room 311 at the above address.

Comments delivered must be marked: Docket No. 83-ANE-15.

Comments may be inspected at the New England Regional Office, Office of the Regional Counsel, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays.

The applicable SB may be obtained from the Service Manager, Spey Engine, Rolls-Royce, Limited, East Kilbride, Glasgow G74 4PY, Scotland. A copy of the SB is contained in Rules Docket No. 83-ANE-15, in the Office of the Regional Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Kenneth W. Steeves, Engine Certification Branch, ANE-142, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive park, Burlington, Massachusetts 01803; telephone (617) 273-7097.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, at the address given above, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice, must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 83-ANE-15". The postcard will be date/time stamped and returned to the commenter.

The FAA has determined that the maximum approved cyclic lives of all stage 12 high pressure compressor disks, stage 12 high pressure compressor rotor seals, and low pressure compressor drive shafts (Pre-Mod. 4927) must be reduced due to a recalculation of low cycle fatigue capabilities using current in-service flight cycle profiles. Since this condition exists on all Spey 555-15, -15H, -15N, and -15P engines, the proposed AD would require the removal of these disks, seals, and drive shafts from service, in accordance with Rolls-Royce Mandatory SB Number Sp72-969, Revision 1.

Conclusion

The FAA has determined that this proposed regulation involves 76 Spey 555-15, -15H, -15N, and -15P engines and the approximate cost for each engine is $511.00. This would result in an increase in engine operating cost of only $0.03 per flight. It has also been determined that a substantial number of small entities are not affected, as these engines are installed in the Fokker F28 aircraft. All of these aircraft are operated by large entities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedure (14 FR 11034; February 26, 1979); and (3) if promulgated, will not have significant ecomonic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 39, § 39.13, of the Federal Aviation Regulations (FAR) as follows:

1. The Authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85.

2. By adding the following new AD:

Rolls-Royce Limited: Applies to all Rolls-Royce Spey 555-15, -15H, -15N, and -15P turbofan engines.

Compliance is required as indicated unless already accomplished.

To prevent possible failure of the stage 12 high pressure compressor disk, stage 12 high pressure compressor rotor seal, and low pressure compressor drive shaft (Pre-Mod. 4927), accomplish the following:

Remove from service, at or before the maximum permissible cyclic lives (flights), in accordance with the following schedule:

CYCLIC LIVES

Part description	Modification	A [1] Number of Flights	B [1] Number of Flights	C [1] Number of Flights	D [1] Number of Flights	E [1] Number of Flights	F [1] Number of Flights
High Pressure Compressor Stage 12 Rotor Disk and Seal.		13,800	15,600	17,600	19,700	22,100	17300
Low Pressure Compressor Rotor Drive Shaft.	Pre-Mod 4927	10,800	10,800	11,500	12,600	14,400	11,200

[1] Note.—Cyclic lives for each component are for flight profiles as denoted by A through F and defined below:

For engines with no N_2 monitoring:

A. Full throttle (Mk. 555–15 or 15N) or rated (Mk. 555–15H or P).

Takeoff procedures giving 101% N_2 on 100% of occasions.

For engines with N_2 monitoring:

B. Where 85% of takeoffs do not exceed 100% N_2

C. Where 85% of takeoffs do not exceed 99% N_2

D. Where 85% of takeoffs do not exceed 98% N_2

E. Where 85% of takeoffs do not exceed 97% N_2

F. Datum profile, average 99.5% N_2

Remove the affected components in accordance with Rolls-Royce Mandatory SB Number Sp72–969, Revision 1, dated May, 1984, at or before accumulation of the maximum cyclic lives listed above.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

The FAA will request the permission of the **Federal Register** to incorporate by reference the manufacturer's SB identified in this document.

Issued in Burlington, Massachusetts, on August 23, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85–20981 Filed 9–3–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–ANE–25]

Airworthiness Directives; Rolls-Royce Limited RB211–535E4 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) which would require initial and repetitive inspections of the outer combustion case for cracks on Rolls-Royce RB211–535E4 engines in accordance with Rolls-Royce Service Bulletin (SB) RB211–72–7775. The proposed AD is needed to prevent an uncontained burst of the outer combustion case which can result from cracks that originate in the stage 6 high compressor bleed soleplate weld.

DATES: Comments must be received on or before November 15, 1985.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 85–ANE–25, 12 New England Executive Park, Burlington, Massachusetts 01803, or delivered in duplicate to Room No. 311 at the above address.

Comments delivered must be marked: Docket No. 85–ANE–25.

Comments may be inspected at the New England Regional Office, Office of the Regional Counsel, Room 311, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, except Federal holidays.

The applicable SB may be obtained for Rolls-Royce Limited, Technical Publications Department, P.O. Box 31, Derby DE2 8BJ, England. A copy of the SB is contained in Rules Docket No. 85–ANE–25 in the Office of the Regional Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Chris Gavriel, Engine Certification Branch, ANE–141, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone (617) 273–7084.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available for examination in the Rules Docket, both before and after the closing date for comments, at the address given above. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 85–ANE–25." The postcard will be date/time stamped and returned to the commenter.

The FAA has determined that cracks originating in the weld at the stage 6 high compressor bleed soleplate of the outer combustion case on Rolls-Royce RB211–535E4 turbofan engines can result in an uncontained engine failure. Cracking in the soleplate weld results from higher than predicted loads on the soleplate due to relative motion between the engine and the airframe. One failure has occurred of a combustion outer case during endurance cyclic rig testing. A crack initiated in the soleplate weld and propagated rearwards along the weld. At a distance of about 9 inches, the crack became critical and propagated axially in both fore and aft directions to ultimate failure. Since this condition is likely to exist or develop on other engines of the same type design, the proposed AD would require initial and repetitive inspections of combustion cases as specified in Rolls-Royce SB RB211–72–7775, dated June 28, 1985, on Rolls-Royce RB211–535E4 turbofan engines.

Conclusion

The FAA had determined that this proposed regulation involves 32 Rolls-Royce RB211–535E4 turbofan engines at an approximate total cost of 200 dollars per year per engine. Less than 11 small entities will be affected by this proposed regulation. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and

(3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A

copy may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by Reference.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85.

2. By adding the following new AD:

Rolls-Royce Limited: Applies to Rolls-Royce RB211-535E4 turbofan engines.

Compliance is required as indicated, unless already accomplished.

To prevent an uncontained outer combustion case burst, accomplish the following:

Inspect for cracks all outer combustion cases which do not incorporate the requirements of Rolls-Royce SB RB211-72-6045, in accordance with the procedures of Rolls-Royce SB RB211-72-7775, dated June 28, 1985, or FAA approved equivalent, within the next 50 flight cycles after the effective date of this AD or before 1,500 flight cycles since new, whichever occurs later. Repetitive inspection thereafter is required at intervals varying from 50 to 500 flight cycles as specified in the Acceptance Criteria of SB RB211-72-7775, dated June 28, 1985.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803 may adjust the compliance time specified in this AD.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

The FAA will request the permission of the Federal Register to incorporate by reference the manufacturer's SB identified and described in this document.

Issued in Burlington, Massachusetts, on August 22, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85-20984 Filed 9-3-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-ANE-17]

Airworthiness Directives; Rolls-Royce Limited RB211-22B, -535C, and -524 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) which would require the removal from service of certain stage 1 and 2 high compressor disk assemblies on Rolls-Royce RB211-22B, -535C, and -524 series engines in accordance with Rolls-Royce Alert Service Bulletin (SB) RB211-72-A7774. The proposed AD is needed to prevent an uncontained stage 1 high compressor disk burst which can result from material defects that were induced by manufacturing process deviations.

DATES: Comments must be received on or before November 15, 1985.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 85-ANE-17, 12 New England Executive Park, Burlington, Massachusetts 01803, or delivered in duplicate to Room No. 311 at the above address.

Comments delivered must be marked: Docket No. 85-ANE-17.

Comments may be inspected at the New England Regional Office, Office of the Regional Counsel, Room No. 311, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, except Federal holidays.

The applicable SB may be obtained from Rolls-Royce Limited, Technical Publications Department, P.O. Box 31, Derby DE2 8BJ, England. A copy of the SB is contained in Rules Docket No. 85-ANE-17 in the Office of the Regional Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Chris Gavriel, Engine Certification Branch ANE-141, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone (617) 273-7084.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available for examination in the Rules Docket, both before and after the closing date for comments, at the address given above. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 85-ANE-17." The postcard will be date/time stamped and returned to the commenter.

The FAA has determined that the failure of certain stage 1 high compressor disks on certain Rolls-Royce RB211-22B, -535C, and -524 series turbofan engines can result in an uncontained engine failure. One disk failed in service, at 3188 flight cycles, and liberated pieces which penetrated the engine case and engine cowl. This failure was precipitated by manufacturing process deviations which contributed to a reduction of the low cycle fatigue life of the disk. Since this condition is likely to exist on other engines of the same type design, the proposed AD would require removal of suspect disks from service as specified in Rolls-Royce Alert SB RB211-72-A7774, dated June 21, 1985, on Rolls-Royce RB211-22B, 535C, and RB211-524B, -524C, and -524D series turbofan engines.

Conclusion

The FAA has determined that this proposed regulation involves 176 Rolls-Royce RB211-22B, -535C and -524 series turbofan engines at an approximate total cost of 5.2 million dollars. Less than 11 small entities will be affected by this proposed regulation. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant

economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85.

2. By adding the following new AD:

Rolls-Royce Limited: Applies to Rolls-Royce RB211-22B, RB211-535C, and RB211-524B, -524C, and -524D series turbofan engines.

Compliance is required as indicated, unless already accomplished.

To prevent an uncontained stage 1 high compressor disk burst, accomplish the following:

Remove the specified serial number stage 1 and 2 high compressor disk assemblies from service in accordance with the serial number lists and compliance schedules specified in Rolls-Royce Alert Service Bulletin (SB) RB211-72-A7774, dated June 21, 1985, or FAA approved equivalent.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by an owner or operator through and FAA maintenance inspector, the Manager, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803 may adjust the compliance time specified in this AD.

The FAA will request the permission of the **Federal Register** to incorporate by reference the manufacturer's SB identified and described in this document.

Issued in Burlington, Massachusetts, on August 22, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85-20985 Filed 9-3-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AGL-17]

Proposed Alteration of Transition Area; Watertown, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Watertown, Wisconsin, transition area to accommodate a new NDB Runway 5 instrument approach procedure to Watertown Municipal Airport.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before October 10, 1985.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 85-AGL-17, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL.

An informal docket may also be examined during normal business hours at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The development of a new NDB Runway 5 instrument approach procedure requires that the FAA alter the designated airspace to ensure that the procedure will be contained within controlled airspace. The additional airspace designated will be approximately a 0.5 mile radius expansion of the existing transition area.

The minimum descent altitudes for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AGL-17." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, IL, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the designated transition area airspace near Watertown Wisconsin.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 2, 1985.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. By amending § 71.181 as follows:

Watertown, WI

That airspace extending upward from 700 feet above the surface within an 8.5 mile radius of Watertown Municipal Airport (lat. 43°10'15" N., long. 88°43'20" W.)

Issued in Des Plaines, IL on August 13, 1985.

Edward J. Phillips,

Acting Director, Great Lakes Region.

[FR Doc. 85–20982 Filed 9–3–85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74 and 82

[Docket No. 85N–0323]

FD&C Yellow No. 5

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to revise the identity and specifications for FD&C Yellow No. 5, which is listed for use in food and in ingested drugs. This action would establish a uniform identity and set of specifications for all regulated uses of this color additive. Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule that would establish a new identity and new specifications for FD&C Yellow No. 5 in § 74.2705 (21 CFR 74.2705). The new identity and new specifications describe the color additive more precisely and control undesired impurities more completely than do those currently listed in § 74.705 (21 CFR 74.705).

DATE: Comments by November 4, 1985.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION:

I. Background

FDA established the identity and specifications for FD&C Yellow No. 5 in 1966 when it permanently listed the color additive for use in foods (21 CFR 74.705) and in ingested drugs (21 CFR 74.1705) (see 31 FR 3008; February 22, 1966). However, during the recent safety review of the provisionally listed uses of FD&C Yellow No. 5, it became evident that continued safe use of the additive would require the adoption of a new identity, which includes a new chemical name and manufacturing method, and new specifications for this color additive. These changes are necessary to control the formation and presence of undesired contaminants in the color additive. A final rule permanently listing the provisional uses of FD&C Yellow No. 5 is published elsewhere in this issue of the **Federal Register**. The discussion in that final rule is referenced as further background for this proposal.

II. Specifications

The new specifications for FD&C Yellow No. 5 for use in externally applied drugs (§ 74.1705) and in cosmetics generally (§74.2705) are based on the results of analyses that are more specific and more sensitive than those that were used in establishing the specifications in § 74.705. Thus, revised § 74.2705 contains specifications for specific intermediates instead of a general specification for "uncombined intermediates," and it also includes a limitation on six recently identified carcinogenic impurities. (For a thorough discussion of the presence of these carcinogenic impurities, see the final rule published elsewhere in this issue of the **Federal Register**.)

The agency now proposes to establish these new specifications as the single set of specifications for all regulated uses of FD&C Yellow No. 5. Because the agency has found carcinogenic impurities in previously certified commercial batches of FD&C Yellow No. 5, it has concluded that specifications for these carcinogenic impurities are necessary to assure the safe use of the color additive in foods and ingested drugs, as well as in cosmetics and externally applied drugs.

Therefore, FDA is proposing to revise the specifications presently listed in § 74.705(b) to conform to those listed in § 74.2705(b) of the final rule published elsewhere in this issue of the **Federal Register**.

III. Identity

The revised regulation (§ 74.2705) also includes a new identity for FD&C Yellow No. 5. The identity consists of the new chemical name of the additive and a brief general description of the process by which the additive is manufactured.

FDA has changed the chemical name of FD&C Yellow No. 5 merely to make it consistent with modern Chemical Abstracts Service Registry guidelines for naming chemical compounds.

FDA has included the manufacturing method in the identity of this color additive because the impurities that result from the manufacturing process are likely to change if that process changes. The proposed specifications for FD&C Yellow No. 5 cover the impurities that are likely to result from the manufacturing processes for this color additive that are currently in use. The agency knows of two current manufacturing processes for this additive, and both are encompassed in the description that the agency is proposing. Thus, all known producers of

FD&C Yellow No. 5 produce the color additive in accordance with the manufacturing processes described in this proposed regulation.

Therefore, the agency is proposing to revise § 74.705(a) to include the new chemical name of FD&C Yellow No. 5 and a brief description of the manufacturing processes for this color additive. FDA is willing to consider petitions for alternative processes. Such petitions should contain evidence that demonstrates that the processes will not produce impurities that will make use of the color additive unsafe.

FDA is also proposing to revise §§ 74.1705, 74.2705, and 82.705 so that all sections of the regulations for FD&C Yellow No. 5 reference the same paragraphs listing the identity and specifications for this additive.

The agency has determined under 21 CFR 25.24(a)(9) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Although this action is exempt from Executive Order 12291, the agency has analyzed the economic effects of this proposal and has determined that it will not result in a major rule as defined by that Order. The agency has estimated the economic cost arising from this proposal to be less than $200,000. This increase in cost in primarily due to the incremental cost of using purer starting materials in the production of FD&C Yellow No. 5.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities, including small businesses, and has determined that no significant economic impact on a substantial number of small entities would derive from this action. While some manufacturers of FD&C Yellow No. 5 may be considered small, the agency does not believe that the cost impact is of sufficient size to be considered significant.

The evidence supporting these findings are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

Interested persons may, on or before November 4, 1985, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 74

Color additives, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Color additives lakes, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Parts 74 and 82 be amended as follows:

1. The authority citation for 21 CFR Parts 74 and 82 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

2. In Part 74:

a. Subpart A is amended in § 74.705 by revising paragraphs (a)(1) and (b) to read as follows:

§ 74.705 FD&C Yellow No. 5.

(a) *Identity.* (1) The color additive FD&C Yellow No. 5 is principally the trisodium salt of 4,5-dihydro-5-oxo-1-(4-sulfophenyl)-4-[(4-sulfophenyl)azo]-1*H*-pyrazole-3-carboxylic acid (CAS Reg. No. 1934-21-0). To manufacture the additive, 4-aminobenzenesulfonic acid is diazotized using hydrochloric acid and sodium nitrite. The diazo compound is coupled with 4,5-dihydro-5-oxo-1-(4-sulfophenyl)-1*H*-pyrazole-3-carboxylic acid. The resulting dye is precipitated as the sodium salt.

* * * * *

(b) *Specifications.* FD&C Yellow No. 5 shall conform to the following specifications and shall be free from impurities other than those named to the extent that such other impurities may be avoided by good manufacturing practice:

Sum of volatile matter at 135 °C (275 °F) and chlorides and sulfates (calculated as sodium salts), not more than 13 percent.

Water-insoluble matter, not more than 0.2 percent.

4,4'-[4,5-Dihydro-5-oxo-4-[(4-sulfophenyl)hydrazono]-1*H*-pyrazol-1,3-diyl]bis[benzenesulfonic acid], trisodium salt, not more than 1 percent.

4-[(4',5-Disulfo[1,1'-biphenyl]-2-yl)hydrazono]-4,5-dihydro-5-oxo-1-(4-sulfophenyl)-1*H*-pyrazole-3-carboxylic acid, tetrasodium salt, not more than 1 percent.

Ethyl or methyl 4,5-dihydro-5-oxo-1-(4-sulfophenyl)-4-[(4-sulfophenyl]hydrazono]-1*H*-pyrazole-3-carboxylate, disodium salt, not more than 1 percent.

Sum of 4,5-dihydro-5-oxo-1-phenyl-4-[(4-sulfophenyl]azo]-1*H*-pyrazole-3-carboxylic acid, disodium salt, and 4,5-dihydro-5-oxo-4-(phenylazo)-1-(4-sulfophenyl]-1*H*-pyrazole-3-carboxylic acid, disodium salt, not more than 0.5 percent.

4-Aminobenzenesulfonic acid, sodium salt, not more than 0.2 percent.

4,5-Dihydro-5-oxo-1-(4-sulfophenyl]-1*H*-pyrazole-3-carboxylic acid, disodium salt, not more than 0.2 percent.

Ethyl or methyl 4,5-dihydro-5-oxo-1-(4-sulfophenyl]-1*H*-pyrazole-3-carboxylate, sodium salt, not more than 0.1 percent.

4,4'-(1-Triazene-1,3-diyl]bis[benzenesulfonic acid], disodium salt, not more than 0.05 percent.

4-Aminoazobenzene, not more than 75 parts per billion.

4-Aminobiphenyl, not more than 5 parts per billion.

Aniline, not more than 100 parts per billion.

Azobenzene, not more than 40 parts per billion.

Benzidine, not more than 1 part per billion.

1,3-Diphenyltriazene, not more than 40 parts per billion.

Lead (as Pb), not more than 10 parts per million.

Arsenic (as As), not more than 3 parts per million.

Mercury (as Hg), not more than 15 parts per million.

Total color, not less than 87 percent.

* * * * *

b. Subpart B is amended in § 74.1705 by revising paragraph (a) to read as follows:

§ 74.1705 FD&C Yellow No. 5.

(a) *Identity and specifications.* (1) The color additive FD&C Yellow No. 5 shall conform in identity and specifications to the requirements of § 74.705 (a)(1) and (b).

(2) Color additive mixtures for drug use made with FD&C Yellow No. 5 may contain only those diluents that are suitable and are listed in Part 73 of this chapter as safe for use in color additive mixtures for coloring drugs.

* * * * *

c. Subpart C is amended in § 74.2705 by revising paragraph (a) to read as follows:

§ 74.2705 FD&C Yellow No. 5.

(a) *Identity and specifications.* The color additive FD&C Yellow No. 5 shall conform in identity and specifications to

the requirements of § 74.705 (a)(1) and (b).

* * * * *

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

3. In Part 82, Subpart B is amended by revising § 82.705 to read as follows:

§ 82.705 FD&C Yellow No. 5.

The color additive FD&C Yellow No. 5 shall conform in identity and specifications to the requirements of § 74.705 (a)(1) and (b) of this chapter.

Dated: August 23, 1985.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 85-21080 Filed 8-30-85; 8:45 am]

BILLING CODE 4160-01-M

POSTAL SERVICE

39 CFR Part 111

Merchandise Return Service for Federal Agencies

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: These proposed regulations will make merchandise return service available to Federal agencies.

The purpose of the merchandise return is to offer a means by which a parcel can be returned to a Federal agency with postage paid by the agency. This proposal is intended to improve accountability for penalty mail and also provide agencies an alternative to First-Class business reply rates when paying postage on returned parcels.

DATE: Comments must be received on or before October 4, 1985.

ADDRESS: Written comments should be sent or delivered to Manager, Official Mail Accounting Branch, Room 8621, Department of the Controller, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260-5215. Copies of all written comments received will be available for public inspection and photocopying at the above address between 9 a.m. and 4 p.m., Monday through Friday, in Room 8621.

FOR FURTHER INFORMATION CONTACT: Margaret H. Munro (202) 245-5001.

SUPPLEMENTARY INFORMATION: Present penalty mail requlations require Federal agencies to use business reply mail when having matter returned to the agency from a private individual, organization or company. If an agency desires to have mail matter returned at other than First-class rates, then special arrangements must be made with the Manager, Official Mail Accounting Branch, U.S. Postal Service, Washington, DC 20260-5215. Special procedures must be established by the agency to maintain an accurate record of all matter returned to the agency coverd by the special agreement.

Establishment of penalty mail merchandise return procedures will eliminate the need for special agreements for fourth-class matter and will provide a standard decentralized method for paying postage on returned matter at other than First-Class rates. It will eliminate the need for an agency to maintain actual records of matter returned under a special agreement. The procedures developed parallel the merchandise return system for commercial mailers. The penalty merchandise return procedures are important to agencies which are on total direct accountability or intend to adopt total direct accountability. Several large agencies adopting total direct accountability have requested development of penalty merchandise return regulations.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408, 3001-3011, 3201-3219, 3403-3405, 3601, 3621; 42 U.S.C. 1973 cc-13, 1973 cc-14.

PART 137—OFFICIAL MAIL

2. Revise 137.276a and f and add new 137.276h to read as follows:

.276 Penalty Reply Mail.

a. *Restriction to Approved Formats.* Agencies may distribute penalty envelopes, cards, cartons, or labels to any person, concern, or organization from whom or through whom official matter is desired by: (1) Using the penalty business reply format provided by 137.276g; (2) using the penalty metered reply format provided by 137.276d; (3) affixing penalty mail adhesive stamps or using penalty mail stamped stationery as provided in 137.276e; (4) using the penalty merchandise return label as provided in 137.267h; or (5) following the special services reply procedures in 137.267f. Standard penalty indicium envelopes, cards, cartons, and labels described in 137.272 may not be distributed for reply purposes except as provided in 137.276f, or when used to return matter to the Bureau of the Census as provided in 137.276b.

* * * * *

f. *Penalty Special Services Reply Mail.* Agencies may distribute penalty envelopes, cards, cartons or labels for return with a special service, by using the standard penalty indicium format in 137.272a. Prior written approval is required from the Manager, Official Mail Accounting Branch. (*Exception:* An authorized merchandise return permit holder may have merchandise return matter insured in accordance with 137.276h(4).) Requests to use this procedure must be submitted in writing to the Manager, Official Mail Accounting Branch, Room 8621, Department of the Controller, USPS Headquarters, Washington, DC 20260-5215. Such requests must include: (1) The service desired; (2) the post offices to which the mail will be returned; and (3) the proposed procedures to determine actual volume and postage due. Return envelopes, cards, cartons, or labels distributed under this provision must have the desired special service preprinted on them.

* * * * *

h. *Penalty Merchandise Return.*

(1) *Description.* Merchandise return service allows a merchandise return permit holder to authorize individuals and organizations to send First-Class (Priority), third-, and fourth-class parcels to the permit holder. The permit holder pays the return postage and fees. (See 919.)

(2) *Application.* (a) An agency must apply by letter to the Manager, Official Mail Accounting Branch, for authorization to use merchandise return labels. A single permit number will be assigned to each agency unless the agency requests multiple numbers.

(b) An agency authorized to use merchandise return service must submit Form 3625, *Merchandise Return Permit Application,* with a copy of the authorization letter from Manager, Official Mail Accounting Branch, to each post office where parcels will be returned. In addition the agency must furnish the local post office the name, address, and telephone number of a contact person for the agency.

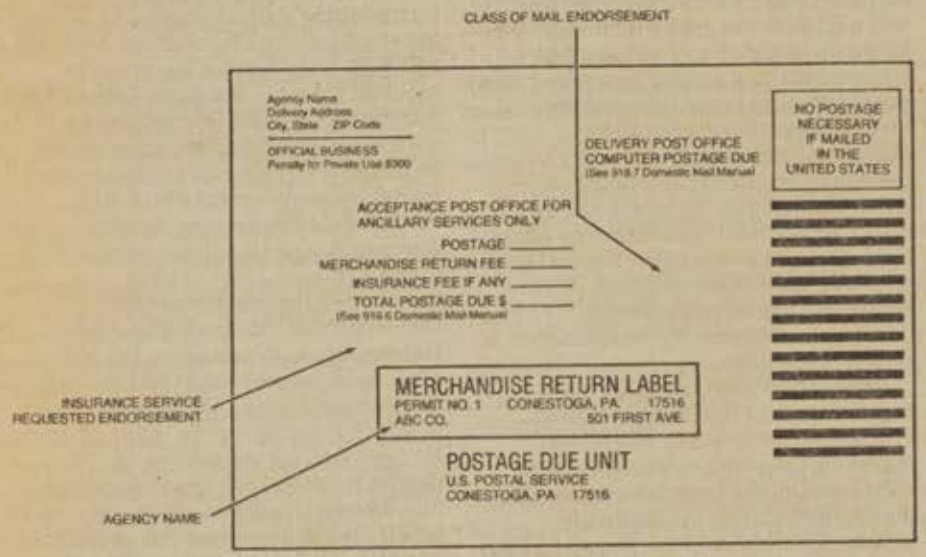
(c) The agency must renew the license by December 31 each year by providing

the post office with a renewal request letter that contains up-to-date local contact information for the agency and the annual fee payment in accordance with (5)c.

(3) *Label Format.* The one-part merchandise return label available for use by Federal Government agencies must bear the address of one of the authorized agencies listed in 137.252 or one of their components. The label must be printed in the format required by 919.4 with the following exceptions:

(a) The phrases "Official Business" and "Penalty for Private Use, $300" must be printed immediately below the return address and above the class of service requested in the upper left corner of the label.

(b) The name of the post office required to appear in the "Merchandise Return Label" legend must be the same as the post office to which the matter has been authorized to be returned.



(4) *Special Services—Insurance.*

(a) *Only the permit holder may request that the mail piece be insured.*

(b) Indemnity under Penalty Mail Merchandise Return is limited to $50. Items requiring insurance greater than $50 may not be mailed under the Penalty Mail Merchandise Return procedures.

(c) Items requiring insurance must have the following information preprinted on the Merchandise Return Label. It may not be typewritten, handwritten, or rubber stamped.

"Insurance Desired by Shipper *$(value)*"

(5) *Payment of Postage and Fees.* (a) Agencies will be charged an annual merchandise return permit fee of $50 for each post office where merchandise return matter is returned.

(b) The amount to be paid for penalty mail merchandise return matter is the appropriate postage for the class of service requested plus a fee of 30 cents per parcel. The insurance fee is additional where applicable.

(c) Postage and fees including the annual permit fee will be paid either by postage meter strip, penalty mail stamps, or cash to the post office(s) authorized to process merchandise return matter.

(6) *Cancellation of permit.* A permit may be cancelled by the Manager, Official Mail Accounting Branch for any violation of postal regulations including:

(a) Refusal to accept and pay the required charges for merchandise return offered for delivery.

(b) Distributing merchandise return labels which do not conform to Postal Service specifications.

(c) Failure to renew permit in accordance with 137.276h(2)(c).

(7) *Receipt of Parcels After Cancellation of Permit.* When a permit is cancelled, parcels received after the cancellation will be treated in accordance with 919.233a and b.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published, if the proposal is adopted.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 85-21046 Filed 9-3-85; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 180

[PP 4E3125/P374; FRL-2890-6]

Pesticide Tolerance for N,N-Diethyl-2-(1-Naphthalenyloxy) Propionamide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the herbicide *N,N*-diethyl-2-(1-naphthalenyloxy) propionamide (napropamide) in or on the raw agricultural commodity pomegranates. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 4E3125/P374], must be received on or before October 4, 1985.

ADDRESS:

By mail, submit written comments to: Information Service Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public

inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Donald Stubbs, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 4E3125 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Station of California.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide *N,N*-diethyl-2-(1-naphthalenyloxy) propionamide in or on the raw agricultural commodity pomegranates at 0.1 part per million (ppm). The petitioner proposed that use of the herbicide napropamide on pomegranates be limited to use west of the Rocky Mountains only based on the geographic representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address given above.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include an acute oral rat study with an LD_{50} greater than 5 grams (g)/kilogram (kg); a 90-day rat feeding study with a no-observed-effect level (NOEL) of 25 mg/kg/day; a 90-day dog feeding study with a NOEL of 40 mg/kg/day; a 2-year rat feeding study with a NOEL of 30 mg/kg/day, negative for oncogenic effects at 100 mg/kg (highest dose tested); a 2-year mouse feeding study with a NOEL of 30 mg/kg/day, negative for oncogenic effects at 100 mg/kg (highest dose tested); a 3-generation rat reproduction study with a NOEL of 30 mg/kg/day; a rabbit teratology study with a NOEL of 400 mg/kg/day; a rabbit teratology study with a NOEL of 200 mg/kg/day; and three mutagenicity studies (rec-assay, host mediated, and Ames test), all negative for mutagenic effects. A chronic toxicity study of at least 12 months duration in a non-rodent is currently lacking but desirable.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 30 mg/kg, or 600 ppm) and using a 100-fold safety factor, is calculated to be 0.3 mg/kg of bw/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 18.0 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0195 mg/day; the current action for pomegranates will increase the TMRC by 0.00005 mg/day, 0.26 percent. Published and pending tolerances utilize 0.11 percent of the ADI; the current action will utilize an additional 0.0003 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. Three are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency and the fact that there are no animal feed items involved, there will be no secondary residues in meat, milk, poultry or eggs. The Agency concludes that the proposed tolerance will protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document number, [PP 4E3125/P374]. All written comments filed in response to this petition will be available in the Information on Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Managment and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 21, 1985.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.328 is amended by designating the current paragraph and list of tolerances as paragaph (a) and adding a new paragraph (b) to read as follows:

§ 180.328 N,N-Diethy1-2-(1-napthalenyloxy) propionamide; tolerances for residues.

(a) * * *

(b) Tolerances with regional registration are established for residues of the herbicide *N, N*-diethy,-2-(1-naptha-lenyloxy) propionamide in or on the following raw agricultural commodities:

Commodities	Parts per million
Pomegranates	0.1

[FR Doc. 85-20923 Filed 9-3-85; 8:45 am]

BILLING CODE 6560-60-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-258; RM-5013]

FM Broadcast Station in Lebanon, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of J.T. Parker Broadcasting Corporation, proposes the allotment of

Channel 283A to Lebanon, Virginia, as that community's first FM service.

DATES: Comments must be filed on or before October 21, 1985, and reply comments on or before November 5, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), table of allotments, FM broadcast stations. (Lebanon, Virginia) MM Docket No. 85–258, RM–5013.

Adopted: August 13, 1985.
Released: August 28, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration a petition for rule making filed by J.T. Parker Broadcasting Corporation ("petitioner"), licensee of Station WLRV(AM), Lebanon, Virginia, as that community's first FM service. Petitioner has stated its intention to apply for the channel.

2. The channel can be allotted consistent with the Commission's minimum distance separation requirements provided a site restriction of 1.8 kilometers (1.1 miles) east of Lebanon is imposed to avoid short spacing to Station WSGS–FM, Channel 266, Hazard, Kentucky.

PART 73—[AMENDED]

§ 73.202 [Amended]

3. In view of the fact that the proposed allotment could provide a first FM service to Lebanon, Virginia, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, for the following community:

City	Channel No.	
	Present	Proposed
Lebanon, Virginia		283A

4. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before October 21, 1985, and reply comments on or before November 5, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Mitch Sandidge, Vice President & Secretary, J.T. Parker Broadcasting Corp., 212 Amity Drive, Bristol, TN 37620.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed.

Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 85-21034 Filed 9-3-85; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 50, No. 171
Wednesday, September 4, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 85-342]

Southwest Boll Weevil Eradication Program; Availability of Environmental Assessment and Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Availability and Finding of No Significant Impact.

SUMMARY: The Animal and Plant Health Inspection Service has prepared an environmental assessment for the boll weevil eradication program in Arizona, California, and northern Mexico. On the basis of the assessment, the Animal and Plant Health Inspection Service has determined that no significant adverse effect on the environment will result from implementation of the selected alternative. Therefore, an environmental impact statement (EIS) on this program will not be prepared.

ADDRESS: A copy of the environmental assessment may be obtained from Michael Shannon, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

The environmental assessment is available for public inspection at this same address between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Michael Shannon, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8295.

SUPPLEMENTARY INFORMATION:

Background

The boll weevil *Anthonomus grandis* (Boheman) is an introduced pest from Mexico which entered the United States near Brownsville, Texas, in approximately 1982 spreading throughout a region known as the cotton belt by 1922. This area includes all or part of 13 states extending from west Texas to Virginia in which approximately 11 million acres of cotton are grown. As the boll weevil moved through the cotton belt, it inflicted damage exceeding that caused by any other cotton pest and currently is the most important agricultural pest in the United States. It costs cotton producers and the U.S. economy 200 to 300 million dollars annually in losses and control costs.

Until recently, the area of the cotton belt west of New Mexico has been considered free of the boll weevil. Each season since 1982 has seen an increase in boll weevil populations, damage, and subsequent pesticide applications.

The goals of the projects are to eliminate the boll weevil from cotton in areas targeted for eradication in Arizona, California, and northern Mexico, and to establish and maintain a buffer area in Arizona to protect the eradicated area.

Sites targeted for eradication during the 1985 and 1986 crop seasons are irrigated desert cotton fields, consisting of 71,000 acres in Arizona, 58,000 acres in California, and 175,000 acres in portions of northern Mexico contiguous with the U.S. border.

A number of alternatives were considered in selecting the recommended course of action:

(1) *No action to eradicate*—reliance upon whatever measures individual growers initiate.

(2) *Optimum pest management*—a coordinated program using insecticides in which the goal is to attempt to keep the boll weevil at levels below which they cause economic damage.

(3) *Zone eradication*—a coordinated program in which the Animal and Plant Health Inspection Service (APHIS) has lead responsibility for program execution in cooperation with State regulatory agencies and Sanidad Vegetal in Mexico. The eradication effort consists of legally mandated plowdown and planting dates within the program area to achieve a minimum 60 day host-free period. All fields in the program area will be set with traps to identify situations where control actions are necessary. Based on trapping surveys, organophosporous insecticides will be applied to prevent a reproductive population from establishing itself in the field. The following insecticides will be used on a selective basis: malathion, azinphosmethyl, propoxur (as a killing agent in the traps) or Pencap M®.

APHIS has selected alternative three (3) because it appears that this is the only alternative that would successfully and quickly eradicate boll weevils with the least cost. Alternative 1 is not feasible since it would not achieve the stated goal and would continue to result in great economic loss to cotton products and pose a threat to 1 million unifested acres in the San Joaquin Valley. Alternative 2 is not feasible since it doesn't totally eliminate the boll weevil problem and will significantly increase production costs. Insecticides used to control the boll weevil destroy many natural enemies of other cotton pests. This in turn often results in higher crop losses and even more intensive use of insecticides to protect cotton from these secondary pests.

APHIS, after considering the cumulative effects of the implementation of the selected alternative, has concluded that there will be no primary, secondary, or cumulative adverse effects on the quality of the human environment based on the specifications for insecticide usage.

The environmental assessment evaluated the uniqueness or rareness of resources being affected and concluded that the selected alternative will not have an effect on the continued existence of any endangered or threatened species or result in the destruction or adverse modification of the habitats of such species.

This action has been reviewed under the requirements of the National Environmental Policy Act as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality's (CEQ) National Environmental Policy Act Regulations (40 CFR Parts 1500-1508), and the APHIS Guidelines concerning Implementation of NEPA Procedures.

Done at Washington, D.C., this 29th day of August, 1985.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 85-21016 Filed 9-3-85; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Transfer of Jurisdiction of Certain National Forest System Lands in California to the Department of the Interior and Adjustment of the Boundaries of the National Forests

Pursuant to direction and authority for the Secretary of Agriculture contained in section 105 of the California Wilderness Act of 1984 (98 Stat. 1626), and the delegation of authority and assignment of functions by the Secretary of Agriculture to the Assistant Secretary of Agriculture for Natural Resources and Environment, administrative jurisdiction of the following described National Forest System lands is hereby transferred to the Secretary of the Interior for administration as part of the National Park System.

The following described National Forest System lands are added to the National Park System:

Sequoia National Forest, California

National Forest System lands depicted on a map entitled "Jennie Lakes Additions, Kings Canyon National Park-Proposed," dated March 1983 and further described as follows:

Mount Diablo Base Meridian

T. 14 S., R. 29 E.,
Portion section 31.
T. 15 S., R. 29 E.,
Portions of sections 4, 5, 6, 7, 8, and 18.

The area described aggregates 1,675 acres, more or less.

Effective on the date of publication of this notice, the above described lands are deemed to be a part of the Kings Canyon National Park.

The exterior boundary of the Sequioa National Forest is hereby adjusted to exclude the area described and to be administered as a part of the National Park System.

Stanislaus National Forest, California

National Forest System lands at Crocker Ridge described as follows: All that land lying easterly of a line beginning at the existing Yosemite National Park boundary and running three hundred feet west of and parallel to the center line of the park road, designated as State Highway 120, also known as the New Big Oak Flat Road, within section 34, T. 1 S., R. 19 E., and within sections 4, 9, and 10 T. 2 S., R. 19 E., Mount Diablo Meridian. The area described aggregates 253 acres, more or less.

National Forest System lands depicted on a map entitled "McCauley Ranch Addition, Yosemite National Park," dated December 1982 and numbered 80,021 and more particularly described as follows:

Mount Diablo Base Meridian

T. 3. S., R. 20 E.,
Sec. 4, E½E½NE¼SW¼, SE¼SE¼, NW¼SE¼, E½SE¼SW¼, and NE¼SW¼SE¼; section 9, NE¼NE¼, E½E½NW¼NE¼, NE¼NE¼SW¼NE¼, NW¼NW¼SE¼NE¼, E½NW¼SE¼NE¼, and E½SE¼NE¼.

The area described aggregates 185 acres, more or less.

Effective on the date of publication of this notice, the above described lands are deemed to be a part of the Yosemite National Park.

The exterior boundary of the Stanislaus National Forest is hereby adjusted to exclude the area described and to be administered as a part of the National Park System.

Copies of maps depicting the boundary revisions are on file and available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture, the Director of the National Park Service, Department of the Interior, and appropriate field offices.

Dated: August 20, 1985.

Peter C. Myers,

Assistant Secretary, Natural Resources and Environment.

[FR Doc. 85-21024 Filed 9-3-85; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Iowa Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Iowa Advisory Committee to the Commission will convene at 8:30 a.m. and adjourn at 12:30 noon on September 12, 1985, at the Holiday Inn, 210 South Dubuque Street, Swans B Room, Iowa City, Iowa. The purpose of the meeting is to continue program planning for fiscal year 1985 and 1986, and to discuss the possibility of a series of community forums to determine the status of civil rights in Iowa.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Ralph Scott, or Melvin Jenkins, Director of the Central States Regional Office at (816) 374-5253, (TDD 816/374-5009).

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 28, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-20979 Filed 9-3-85; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-084]

Spun Acrylic Yarn From Italy; Final Results of Administrative Review of Antidumping Duty Order and Revocation in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping duty order and revocation in part.

SUMMARY: On July 13, 1984, the Department of Commerce published the preliminary results of its administrative review, tentative determination to revoke with respect to one firm, and intent to revoke with respect to a combination of firms, on the antidumping duty order on spun acrylic yarn from Italy. The review covers seven of the sixteen known manufacturers and/or exporters of this merchandise to the United States, and generally the period April 1, 1982, through March 31, 1983. For the firms covered by the intent to revoke, Lanificio DiNervesa Della Battaglia/Gaston Investments, Inc., the review covers up to February 24, 1983, the date of our tentative determination to revoke the order with respect to that combination.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results, tentative determination to revoke in part, and intent to revoke in part. At the request of one manufactuer, we held a public hearing on August 27, 1984.

As a result of our review of the comments received, and after correcting certain errors in our preliminary results, we have changed the margin for that one manufacturer. We made no changes in the final results of review for the other companies from those presented in our preliminary results.

We also determined that there were no shipments of this merchandise to the United States by Fraver S.P.A. during the period April 1, 1983, through July 13, 1984, the date of the tentative determination to revoke the order with respect to that firm. We advised all interested parties that there were no shipments by Fraver and we provided an additonal opprtuntity to comment. We recieved no comments. Accordingly, these final results cover up to July 13, 1984, for Fraver, and we revoke the antidumping duty order on spun acrylic yarn from Italy with respect to Fraver and Lanificio DiNervesa Della Battaglia/Gaston Investments, Inc.

EFFECTIVE DATE: September 4, 1985.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 2030; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On February 24, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 7771) a tenative determination to revoke in part the antidumping duty order on spun acrylic yarn from Italy (45 FR 23684, April 8, 1980), with respect to Lanificio DiNevesa Della Battaglia S.P.A./Gaston Investments, Inc. On July 13, 1984, the Department published in the **Federal Register** (49 FR 28593) the preliminary results of its administrative review of the order, tentative determination to revoke with respect to Fraver S.P.A., and intent to revoke with respect to DiNervesa/Gaston. The Department has now completed that administrative review.

Scope of the Rreview

Imports covered by the review are shipments of worsted-spun acrylic, plied yarn for machine knitting, excluding four-ply craft yarn and certain brushed yarns. Such merchandise is currently classifiable under items 310.5015 and 310.5049 of the Tariff Schedules of the United States Annotated.

The review covers seven of the sixteen known manufacturers and/or exporters of Italian spun acrylic yarn to the United States and generally the period April 1, 1982, through March 31, 1983. For DiNervesa/Gaston, the review covers up to February 24, 1983, the date of our tentative determination to revoke the order with respect to that combination of firms. The Department has also determined that there were no shipments of this merchandise to the United States by Fraver S.P.A. during the period April 1, 1983, through July 13, 1984, the date of our tentative determination to revoke the order with respect to Fraver.

Analysis of comments received

We gave interested parties an opportunity to submit oral or written comments on the preliminary results, tentative determination to revoke in part, and intent to revoke in part. At the request of one respondent, International Fibre Industries Ltd. ("IFI"), we held a public hearing on August 27, 1984.

The Department provided interested parties further preliminary results for Fraver, for the period up to the date of the tentative determination to revoke with respect to that firm, and gave interested parties an additional opportunity to comment. We received no comments on the supplemental review of fraver.

Comment 1: IFI contends that the Department has overstated the costs of fabrication in its calculation of the constructed value of IFI's merchandise. As a consequence, we have also overstated the amount for general expenses and profit, since those amounts are based upon statutory minimum percentages of the costs of materials and fabrication, and of materials, fabrication and general expenses, respectively.

IFI claims that, while the cost of materials should be equal to the amount IFI paid to its fiber supplier for the raw fiber, the cost of fabrication should be equal to the fabrication costs actually incurred by IFI's unrelated spinner subcontractor, DiNervesa. The fabrication costs should not be the amount IFI paid DiNervesa, including DiNervesa's general expenses and profit. To the extent that one might perceive in IFI's claim contradictory treatment of acquired materials costs and subcontracted fabrication costs, IFI argues that there is a legitimate distinction where the subcontract spinner is responsible for the final act of fabrication.

Department's Position: The practice of purchasing materials and of sub-contracting fabrication to an independent spinner are parallel business activities. Section 773(e)(1) of the Tariff Act suggests no reason for us to distinguish between acquired materials and acquired fabrication in calculating constructed value. The correct cost of materials is IFI's cost of purchasing the material inputs from an unrelated supplier, even though that cost includes the selling, general and administrative expenses and the profit of the materials supplier. Likewise, the costs of fabrication to IFI are the spinning charges its pays to its unrelated subcontract spinner, even though such charges also include the selling, general and administrative expenses and the profit of the fabrication supplier. We do not find IFI's final processor distinction to be persuasive.

Comment 2: IFI argues that the Department's calculation of foreign market value erroneously included an adjustment for differences in circumstances of sale based upon the credit terms IFI offers on sales to purchasers in the United States. IFI incurs no actual expenses in extending credit to its U.S. purchasers because the terms it secures from its materials suppliers and its subcontract spinner allow IFI to receive payment from its customers at or about the time it pays the production costs. IFI therefore does not need to borrow funds to finance its extension of credit to purchasers. Further, if IFI's purchasers do not pay in time to cover IFI's production costs, IFI invoices its purchasers for all of the carrying charges IFI incurs by its extending credit beyond the routine payment period.

IFI further contends that, if we nevertheless persist in quantifying an imputed expense for credit on sales to the United States based on what it would cost IFI to finance receivables until IFI is paid, then we should consider the portion of constructed value for general expenses to include a selling expense equivalent to the cost of extending credit on the U.S. sales, and thus no adjustment for differences would be necessary or appropriate.

Department's Position: When, as here, purchase price is the basis of a producer's United States price, differences in circumstance of sale are accounted for by adjustment to foreign market value. Even when constructed value is the basis for foreign market value, such constructed value is subject to circumstance-of-sale adjustments. Any adjustment to foreign market value for differences in credit terms is an adjustment for the difference in the terms of sale extended by the seller of the finished product in the two markets, not for the differences between the terms extended to the producer in the production phase and the terms extended by the producer. Adjustments for differences in circumstances of sale are, by definition, limited to consideration of a seller's marketing practices and are unaffected by conditions affecting production.

Many manufacturers do not finance receivables in direct relation to the credit terms they offer, but instead rely

upon a variety of cash flow management techniques. However, to quantify equitably and consistently the effects of the different credit terms that a seller offers, we consider all receivables to be financed, at a company's experienced short-term interest rate, for the period of delayed payment. In the absence of a company's individual interest rate experience with short-term debt, we rely, as we did here, on the prevailing prime rate.

Because IFI has no home market selling experience, no portion of the calculated general expense element of constructed value can reasonably be considered attributable to a directly-related selling expense derived from home market credit terms. Therefore, to adjust constructed value for the difference in this circumstance of sale, we added to constructed value the entire amount of the expense included in the U.S. price.

In our preliminary results, we in fact neglected to make any circumstance-of-sale adjustment for IFI's imputed credit terms on its U.S. sales. We also did not account for carrying charges IFI invoiced to its purchasers for their payment beyond the scheduled payment date. We have now made the circumstance-of-sale adjustment, but we have not included any period of delayed payment for which IFI assessed its customers financing charges.

Comment 3: IFI contends that the Department erred in calculating the materials cost element of constructed value by applying a percentage spinning loss factor in excess of that actually experienced by IFI's subcontractor in producing the spun yarn. In addition, IFI claims that the actual loss factor should be reduced by the amount of credits that IFI received from DiNervesa's sales of the waste material.

Department's Position: In its response to our questionnaire, IFI reported its loss experience as a range of loss factors, but calculated amounts attributable to spinning losses by applying the lowest factor in the range. In our preliminary results, we applied the loss factor at the upper limit of the range. We erroneously applied that factor to the spinning charge rather than to the materials cost, but we have corrected that error in these final results. IFI did not report its actual average loss experience, nor mention credits for recovered waste, until after the publication of our preliminary results. Because of the late submission of this additional data, and because our chosen factor originated in the response, we did not consider the late data. We will examine this issue in our next requested administrative review, and if this data can be verified satisfactorily, we will calculate IFI's material costs accordingly.

Final Results of Review and Revocation in Part

Based on our analysis of the comments received, and our correction of certain errors in our preliminary results, we have changed the margin for Lanificio DiNervesa Della Battaglia S.p.A./International Fibre Industries Ltd. In addition, we have determined that Fraver S.p.A. had no shipments of this merchandise to the United States up to July 13, 1984. We determine that the following margins exist:

Manufacturer/Exporter	Time period	Margin (percent)
Lanificio DiNervesa Della Battaglia S.p.A./Gaston Investments, Inc	4/1/82-2/24/83	0
Lanificio DiNervesa Della Battaglia S.p.A./International Fibre Industries, Ltd	4/1/82-3/31/83	4.92
Cofisa S.p.A	4/1/82-3/31/83	1.35
Babyfil S.A.S	4/1/82-3/31/83	48.05
Maglificio Varianini	4/1/82-3/31/83	[1]48.05
Orlandi Filatura S.p.A	4/1/82-3/31/83	[1]48.05
Fraver S.p.A	4/1/82-7/13/84	[1]48.05

[1] No shipments during the period.

For the reasons set forth in the preliminary results, we are satisfied that there is no likelihood of resumption of sales at less than fair value by Lanificio DiNervesa Della Battaglia S.p.A./Gaston Investments, Inc. or by Fraver S.p.A. Accordingly, we revoke in part the antidumping duty order on spun acrylic yarn from Italy. This revocation in part applies to all unliquidated entries of this merchandise manufactured and exported by DiNervesa/Gaston entered, or withdrawn from warehouse, for consumption on or after February 24, 1983, and by Fraver on or after July 13, 1984.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each firm directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required for those remaining firms. For any future entries from a new exporter not covered by this or prior reviews, whose first shipments of Italian spun acrylic yarn occurred after March 31, 1983, and who is unrelated to any covered firm, a cash deposit of 4.92 percent shall be required. These deposit requirements are effective for all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible.

This administrative review, revocation in part, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: August 27, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-21069 Filed 9-4-85; 8:45 am]

BILLING CODE 3510-JS-M

[C-791-007]

Certain Steel Products From South Africa; Final Results of Changed Circumstances, Administrative Review and Revocation of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of changed circumstances, administrative review and revocation of countervailing duty order.

SUMMARY: On July 8, 1985, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on certain steel products from South Africa and announced its tentative determination to revoke the order. The review covers the period from October 1, 1984.

We gave interested parties an opprtunity to comment. We received no comments. We therefore determine that domestic interested parties are no longer interested in continuation of the order, and we are revoking the order. In accordance with the petitioners' notifications, the revocation will apply to all certain steel products entered, or withdrawn from warehouse, for consumption on or after October 1, 1984.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Philip Otterness or Al Jemmott, Office of Compliance, International Trade Administration, U.S. Department of

Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On July 8, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 27837) the preliminary results of its changed circumstances administrative review of the countervailing duty order on certain steel products from South Africa (47 FR 39379, September 7, 1982). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of South African carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet, cold-rolled carbon steel sheet, galvanized carbon steel sheet, hot-rolled carbon steel bars, hot-rolled alloy steel bars, and cold-formed carbon steel bars. The products are fully described in the appendix to this notice. The review covers the period from October 1, 1984.

Final Results of the Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments.

As a result of our review, we determine that the domestic interested parties are no longer interested in continuation of the countervailing duty order on certain steel products from South Africa and that the order should be revoked on this basis.

Therefore, we are revoking the order on certain steel products from South Africa effective October 1, 1984. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984, without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to those entries.

This notice does not cover unliquidated entries of certain steel products from South Africa which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984. The Department will cover any entries not covered in a prior administrative review and entered, or withdrawn from warehouse, for consumption before October 1, 1984, in a separate review, if one is requested.

This administrative review, revocation, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and SS 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: August 27, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary, Import Administration.

Appendix—Description of Products

For purposes of this review:

1. The term *"carbon steel structural shapes"* covers hot-rolled, forged, extruded or drawn, or cold-formed or cold-finished carbon angles, shapes, or sections, not drilled, not punched, and not otherwise advanced, and not conforming completely to the specifications given in the headnotes to Schedule 6, Part 2 of the Tariff Schedules of the United States Annotated ("TSUSA"), for blooms, billets, slabs, sheet bars, bars, wire pods, plates, sheets, strip, wire, rails, joint bars, tie plates, or any tubular products set forth in the TSUSA, having a maximum cross-sectional dimension of 3 inches or more, as currently provided for in items 609.8005, 609.8015, 609.8035, 609.8041, or 609.8045 of the TSUSA. Such products are generally referred to as structural shapes.

2. *The term "hot-rolled carbon steel plate"* covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6620, 607.6625, or 607.9400 of the TSUSA; and hot- or cold-rolled carbon steel plate which has been coated or plated with zinc, including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710 or 608.1100 of the TSUSA. Semifinished products of solid rectangular cross section with a width at least four times the thickness in the "as cast" condition or processed only through primary mill hot rolling are not included.

3. The term *"hot-rolled carbon steel sheet"* covers the following hot-rolled carbon steel products. Hot-rolled carbon steel sheet is a hot-rolled carbon steel product, whether or not corrugated or crimped, whether or not pickled, and whether or not painted or varnished; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 8 inches in width and in coils or, if not in coils, under 0.1875 inch in thickness and over 12 inches in width as currently provided for in items 607.6610, 607.6710 through 607.6740, 607.8320, 607.8342, or 607.9400 of the TSUSA. *PLEASE NOTE THAT THE DEFINITION OF HOT-ROLLED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE TSUSA (ITEMS 607.6610 AND 607.8320).*

4. The term *"cold-rolled carbon steel sheet"* covers the following cold-rolled carbon steel products. Cold-rolled carbon steel sheet is a cold-rolled carbon steel product, whether or not corrugated or crimped, whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width and in coils or, if not in coils, under 0.1875 inch in thickness; as currently provided for in items 607.8320 or 607.8350 through 607.8360 of the TSUSA. *PLEASE NOTE THAT THE DEFINITION OF COLD-ROLLED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE TSUSA (ITEM 607.8320).*

5. The term *"galvanized carbon steel sheet"* covers hot- or cold-rolled carbon steel sheet which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710, 608.0730, 608.1100, 608.1310, 608.1320, or 608.1330 of the TSUSA. *NOTE THAT THE DEFINITION OF GALVANIZED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFED AS "PLATE" IN THE TSUSA (ITEMS 608.0710 and 608.1100).* Hot- or cold-rolled carbon steel sheet which has been coated or plated with metal other than zinc is not included.

6. The term *"hot-rolled carbon steel bars"* covers hot-rolled carbon steel products of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, not cold-formed, and not coated or plated with metal, as currently provided in items 606.8310, 606.8330, or 606.8350 of the TSUSA.

7. The term *"hot-rolled alloy steel bars"* covers hot-rolled alloy steel products, other than those of stainless or tool steel, of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, not cold-formed, as currently provided for in item 606.9700 of the TSUSA.

8. The term *"cold-formed carbon steel bars"* covers cold-formed carbon steel

products of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, as currently provided for in items 606.8805 or 606.8815 of TSUSA. Cold-formed carbon steel bars does not include cold-rolled carbon steel products cut to length, of any cross-sectional dimension less than 0.703 inch in maximum cross-sectional dimension, or if of rectangular cross section, not over 0.25 inch in the thickness and not over 0.50 inch in width.

[FR Doc. 85-21067, Filed 9-3-85; 8:45 am]
BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Amended Meeting Notice

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The dates and times cited in the agenda (published August 9, 1985, at 50 FR 32251) for public meetings of the Caribbean Fishery Management Council and its Administrative Subcommittee have been changed. The Council will convene its public meeting on September 25–26, 1985, (instead of on September 4–5) at 9 a.m. on September 25, and adjourn at 5 p.m.; reconvene at 9 a.m. on September 26, and adjourn at approximately noon. The Council's Administrative Subcommittee will convene its public meeting on September 24, (instead of September 3) at 2 p.m. and will adjourn at 5 p.m. All other information remains unchanged. For further information contact the Caribbean Fishery Management Council, Suite 1108, Banco de Ponce building, Hato Rey, Puerto Rico 00918; telphone: (809) 753–4926.

Dated: August 29, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-21085 Filed 9-3-85; 8:45 am]
BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Notice of Opportunity for Participation by Interested Persons in Public Commission Meeting

On Wednesday, September 18, 1985, at 2 p.m. E.D.T. the Commodity Futures Trading Commission will conduct an open public meeting at its headquarters in Washington, D.C., concerning the applications of Monex International Ltd. and of First Asset Corporation (formerly American Coin Exchange, Inc.) seeking registration with the Commission as a leverage transaction merchant as well as applications from these firms for registration of certain leverage commodities. *See* Commission Rules 3.17 and 31.6, 17 CFR 3.17 and 31.6 (1985). This is to give notice that the Commission has determined to hold this meeting in order to provide interested persons with an opportunity to participate in the Commission's consideration of these matters through oral presentations made at the meeting.

Specifically, the Commission has adopted the following procedures to implement its determination to permit interested persons to present oral statements at its September 18 meeting concerning the above-described matters: Oral statements on behalf of any single person or entity shall be presented by a single individual and shall be limited to ten minutes in duration. Any person desiring to present an oral statement at the meeting shall request in writing the opportunity to do so. That written request shall be addressed to the Commission's Office of the Secretariat, 2033 K Street, NW., Washington, D.C. 20581, must be received by that Office on or before September 12, 1985, and shall identify the individual desiring to make an oral presentation as well as the person or entity on whose behalf the statement would be made. This written request shall be followed by the submission to the Commission of the written text of the statement which the interested person wishes to present at the Commission meeting. The submission must be received by the Commission's Office of the Secretariat on or before September 16, 1985. Persons who have made timely submissions of written requests and the texts of proposed oral presentations will subsequently be notified by the Office of the Secretariat concerning whether their request to make an oral presentation at the Commission meeting has been granted or denied. Whether such requests are granted or denied, the Commission's intends to give consideration to the written texts of all proposed oral presentations which have been timely submitted.

For further information, interested persons should contact Jean A. Webb, Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 at (202) 254–6314.

Issued by the Commission in Washington, D.C. on August 30, 1985.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-21211 Filed 9-3-85; 8:45 am]
BILLING CODE 6351-10-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Defense Intelligence Agency Scientific Advisory Committee; Meeting

AGENCY: Defense Intelligence Agency Scientific Advisory Committee, DOD.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of Section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATE: 18 October 1985 9:00 a.m. to 5:00 p.m.

ADDRESS: The DIAC, Bolling AFB, DC.

FOR FURTHER INFORMATION CONTACT: Lt Col Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, D.C. 20301 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Space Activities.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

August 27, 1985.

[FR Doc. 85-21006 Filed 9-3-85; 8:45 am]
BILLING CODE 3810-01-M

DoD-University Forum; Working Group on Engineering and Science Education Advisory Committee; Meeting

SUMMARY: The Working Group on Engineering and Science Education of the DoD-University Forum will meet in open session on September 23, 1985, from 2:00 p.m. until 5:30 p.m. and on September 24, 1985, from 9:00 a.m. until 4:00 p.m., at the Hyatt Regency Hotel, Crystal City, 2799 Jefferson Davis Highway, Arlington, Virginia 22202.

The purpose of the meeting is to discuss DoD plans for the University Research Initiative proposed in the President's budget submission for FY 86.

Public attendance will be accommodated as space permits. Public attendees should telephone Mr. Edward Blake of the DoD Office of Research and Laboratory Management, (202) 694–0205 by close of business, September 18, 1985, to be advised of the meeting room and seating availability.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

August 27, 1985.

[FR Doc. 85–21005 Filed 9–3–85; 8:45 am]

BILLING CODE 3810–01–M

Strategic Defense Initiative Advisory Committee; Meetings

SUMMARY: The Strategic Defense Initiative (SDI) Advisory Committee will meet in closed session, in Washington, D.C., on October 2 and 3, 1985.

The mission of the SDI Advisory Committee is to advise the Secretary of Defense and the Director, Strategic Defense Initiative Organization on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting on October 2 and 3, the committee will discuss status of SDI research and management issues.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C., App II, (1982)), it has been determined that this SDI Advisory Committee meeting, concerns matters listed in 5 U.S.C., 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

August 27, 1985.

[FR Doc. 85–21004 Filed 9–3–85; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

National Institute of Handicapped Research; Noncompeting Continuation Grants for Rehabilitation Engineering Centers for Fiscal Year 1986

Applications are invited for noncompeting continuation awards for Fiscal Year 1986 for the Rehabilitation Engineering Center program administered by the National Institute of Handicapped Research.

Authority for this program is contained in section 204(b)(2) of the Rehabilitation Act of 1973 as amended by Pub. L. 95–602 and Pub. L. 98–221 (29 U.S.C. 762(b)(2)).

Under this program, awards are issued to States and public or private agencies and organizations, including institutions of higher education.

The purpose of the awards is to provide continuation support for Rehabilitation Engineering Centers supported by the National Institute of Handicapped Research.

Closing date for transmittal of applications: To be assured of consideration for funding, applications for a noncompeting continuation award should be mailed or hand delivered no later than October 15, 1985.

If the application is late, the Department of Education may lack sufficient time to review it and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.133, 400 Maryland Avenue, SW., Washington, DC 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building No. 3, 7th and D Streets, SW. Washington, DC 20202.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: At this time, the amount of the Fiscal Year 1986 appropriation for the National Institute of Handicapped Research is undetermined. Approximately $8,000,000 is currently expected to be available for noncompeting continuation grants and cooperative agreements under the Rehabilitation Engineering Center program in Fiscal Year 1986. Approximately 16 awards are expected to be made; the awards will vary in size, with an approximate range of $150,000 to $600,000, depending on the scope of the individual grant.

However, these estimates do not bind the U.S. Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Only current grantees are eligible to apply. Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grants under this notice.

Applications must be prepared and submitted in accordance with the instructions and forms included in application packages. Applicants are urged not to submit information that is not requested.

However, the program information is intended only to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations. The Secretary urges that applicants limit the number of pages in their applications as stated in the application kit.

(Approved by the Office of Management and Budget under Control Number 1820–0027.)

Applicable regulations: The following regulations are applicable to this program:

(a) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

(b) National Institute of Handicapped Research Regulations (34 CFR Parts 350 and 353).

FOR FURTHER INFORMATION CONTACT: Ms. Edythe Glazer, National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building, Room 3070, 330 C Street, SW., Washington, DC 20202. Telephone (202) 732–1182; deaf and hearing impaired individuals may call (202) 732–1198 for TTY services.

(29 U.S.C. 760–762)

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

Dated: August 29, 1985.

Joan Standlee,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 85-21048 Filed 9-3-85; 8:45 am]

BILLING CODE 4000-01-M

National Institute of Handicapped Research; Noncompeting Continuation Grants for Research and Demonstration Projects and Knowledge Dissemination and Utilization Projects for Fiscal Year 1986

Applications are invited for noncompeting continuation awards for Fiscal Year 1986 for two research programs administered by the National Institute of Handicapped Research.

Authority for these programs is contained in sections 204(a) and 204(b) of the Rehabilitation Act of 1973, as amended by Pub. L. 95-602 and Pub. L. 98-221 (29 U.S.C. 762(a) and 762(b)).

Under these programs, awards are issued to States and public or private agencies and organizations, including institutions of higher education.

The purpose of the awards is to provide continuation support for Research and Demonstration Projects and Knowledge Dissemination and Utilization Projects.

Closing date for transmittal of applications: To be assured of consideration for funding, applications for a noncompeting continuation award should be mailed or hand delivered no later than 90 days prior to the end of the current budget period or 30 days from the date of this notice, whichever is later.

If the application is late, the Department of Education may lack sufficient time to review it and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.133, 400 Maryland Avenue, SW, Washington, DC 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mailed receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building No. 3, 7th and D Streets, SW, Washington, DC 20202.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: At this time, the amount of the Fiscal Year 1986 appropriation for the National Institute of Handicapped Research is undetermined. Approximately $2,280,000 is currently expected to be available for noncompeting continuation grants and cooperative agreements in Fiscal Year 1986 under the Research and Demonstration Projects and Knowledge Dissemination and Utilization Projects programs. Approximately 14 awards are expected to be made; the awards will vary in size, with an approximate range of $75,000 to $500,000, depending on the scope of the individual grant.

However, these estimates do not bind the U.S. Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Only current grantees are eligible to apply. Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grants under this notice.

Applications must be prepared and submitted in accordance with the instructions and forms included in application packages. Applicants are urged not to submit information that is not requested.

However, the program information is intended only to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations. The Secretary urges that applicants limit the number of pages in their applications as stated in the application kit.

(Approved by the Office of Management and Budget under Control Number 1820-0027).

Applicable regulations: The following regulations are applicable to these programs:

(a) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

(b) National Institute of Handicapped Research Regulations (34 CFR Parts 350, 351, and 355).

FOR FURTHER INFORMATION CONTACT: Ms. Edythe Glazer, National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building, Room 3070, 330 C Street, SW, Washington, DC 20202. Telephone (202) 732-1182; deaf and hearing impaired individuals may call (202) 732-1198 for TTY services.

(29 U.S.C. 760-762)

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

Dated: August 29, 1985.

Joan Standlee,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 85-21049 Filed 9-3-85; 8:45 am]

BILLING CODE 4000-01-M

National Institute of Handicapped Research; Noncompeting Continuation Grants for Rehabilitation Research and Training Centers for Fiscal Year 1986

Applications are invited for noncompeting continuation awards for Fiscal Year 1986 for the Research and Training Center program administered by the National Institute of Handicapped Research.

Authority for this program is contained in section 204(b)(1) of the Rehabilitation Act of 1973 as amended by Pub. L. 95-602 and Pub. L. 98-221 (29 U.S.C. 762(b)(1)).

Under this program, awards are issued to States and public or private agencies and organizations, including institutions of higher education.

The purpose of the awards is to provide continuation support for Research and Training Centers supported by the National Institute of Handicapped Research.

Closing date for transmittal of applications: To be assured of consideration for funding, applications for a noncompeting continuation award should be mailed or hand delivered no later than October 4, 1985 for those Research and Training Centers whose continuation award dates are between

December 30, 1985 and February 28, 1986. Applications for those Centers whose continuation award dates are from March 1, 1986 through April 1, 1986 are due no later than November 16, 1985. Applications are due no later than February 28, 1986 for those Centers whose continuation award dates fall between April 2, 1986 and August 1, 1986. Continuation applications from all other Centers are due at least 90 days before the continuation award date but no later than June 30, 1986.

If the application is late, the Department of Education may lack sufficient time to review it and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.133, 400 Maryland Avenue, SW., Washington, DC 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building ±3, 7th and D Streets, SW, Washington, DC 20202.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: At this time, the amount of the Fiscal Year 1986 appropriation for the National Institute of Handicapped Research is undetermined. Approximately $16,700,000 is currently expected to be available for noncompeting continuation grants and cooperative agreements under the Research and Training Center program in Fiscal Year 1986. Approximately 33 awards are expected to be made; the awards will vary in size, with an approximate range of $150,000 to $600,000, depending on the scope of the individual grant.

However, these estimates do not bind the U.S. Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Only current grantees are eligible to apply. Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grants under this notice.

Applications must be prepared and submitted in accordance with the instructions and forms included in application packages. Applicants are urged not to submit information that is not requested.

However, the program information is intended only to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations. The Secretary urges that applicants limit the number of pages in their applications as stated in the application kit.

(Approved by the Office of Management and Budget under Control Number 1820-0027.)

Applicable regulations: The following regulations are applicable to this program:

(a) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

(b) National Institute of Handicapped Research Regulations (34 CFR Parts 350 and 352).

FOR FURTHER INFORMATION CONTACT: Ms. Edythe Glazer, National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building, Room 3070, 330 C Street, SW, Washington, DC 20202. Telephone (202) 732-1182; deaf and hearing impaired individuals may call (202) 732-1198 for TTY services.

(29 U.S.C. 760-762)

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

Dated: August 29, 1985.

Joan Standlee,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 85-21050 Filed 9-3-85; 8:45 am]

BILLING CODE 4000-01-M

National Institute of Handicapped Research; Innovation Grants for Fiscal Year 1986

Applications are invited for new projects for Innovation Grants for Fiscal Year 1986 under the National Institute of Handicapped Research.

Authority for this program is contained in section 204(b)(13) of the Rehabilitation Act of 1973, as amended by Pub. L. 95-602 and Pub. L. 98-221 (29 U.S.C. 762(b)(13)).

Closing date for transmittal of applications: Applications for new awards will be accepted beginning October 1, 1985, however all applications must be mailed by July 1, 1986. NIHR intends to award funds under this program through grants or cooperative agreements. The National Institute of Handicapped Research (NIHR) may convene peer review panels and award grants from time to time during the year, so that applicants may submit applications at any time up to the closing date. Potential applicants should be aware that all funds in this program could be awarded before the final closing date. Therefore, potential applicants are advised to consider the merits of submitting an application early, rather than at the closing date. However, early submission does not necessarily commit the Department of Education to review or fund any applications before the final closing date.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.133C, 400 Maryland Avenue, SW, Washington, DC 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not acept either of the folowing as proof

of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets, SW., Washington, DC 20202.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: NIHR expects to fund approximately eight Innovation Grants at a maximum amount of $50,000 per grant. These grants will be for a period of one year. NIHR has reserved $400,000 to fund grants under this program. However, these estimates do not bind the U.S. Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulation.

Program information: In Pub. L. 98–221, the 1984 amendments to the Rehabilitation Act, Congress established a program of small grants (maximum $50,000 funding level), in order to: test new concepts and innovative ideas; demonstrate research results of high potential benefits; purchase and evaluate prototype aids and devices; develop unique rehabilitation training curricula; and respond to the special initiatives of the Director of NIHR. This provision was implemented for the first time in Fiscal Year 1985. The regulations for this program were published in the Federal Register on April 26, 1985 at 50 FR 16672–16677.

These grants are for the purpose of conducting research, demonstrations, planning and feasibility studies, curriculum development projects, evaluation of aids and devices, unique programs to disseminate research findings or define the state-of-the-art in specific problem areas, and evaluations of techniques or programs related to the vocational and general rehabilitation of disabled individuals, especially the most severely handicapped. These grants may be used to investigate problems and solutions related to disabled persons of all ages and with all types of disabilities.

Application forms: Application forms and further information may be obtained by writing to or calling the National Institute of Handicapped Research, U.S. Department of Education, Mailstop 3070–2305, Switzer Office Building, 400 Maryland Avenue, SW., Washington, DC 20202 (Attention: Peer Review Unit). Telephone (202) 732–1207. Deaf and hearing impaired individuals may call (202) 732–1198 for TTY services. Requests should refer to applications for Innovation Grants, 84.133C.

Applications must be prepared and submitted in acordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary suggests that applicants limit the number of pages in their applications to 20 pages for the project narrative and 50 pages for the total application.

(Approved by the Office of Management and Budget under Control Number 1820–0027.)

Applicable regulations: The following regulations are applicable to this program:

(a) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

(b) National Institute of Handicapped Research Regulations (34 CFR Parts 350 and 358).

FOR FURTHER INFORMATION CONTACT: Ms. Gail Perry, National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building, Room 3070, 330 C Street, SW, Washington, DC 20202. Telephone (202) 732–1207; deaf and hearing impaired individuals may call (202) 732–1198 for TTY services.

(29 U.S.C. 760–762)

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

Dated: August 29, 1985.

John Standlee,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 85–21051 Filed 9–3–85; 8:45 am]

BILLING CODE 4000–01–M

Office of Postsecondary Education

National Direct Student Loan College Work-Study, and Supplemental Educational Opportunity Grant Programs; Closing Date for Filing the Fiscal-Operations Report and Application to Participate

AGENCY: Department of Education.

ACTION: Notice of Closing Data for Filing the Fiscal-Operations Report and Application to Participate in the National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) Programs.

SUMMARY: The Secretary gives notice to institutions of higher education of the deadline for an institution to apply for fiscal year 1986 funds—for use in the 1986–87 award year—under the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant programs. Under these programs, the Secretary allocates funds to institutons for students who need financial aid to meet the cost of postsecondary education. An institution is not required to establish eligibility prior to applying for funds. Institutions will be notified of the closing date for establishing institutional eligibility to participate in the NDSL, CWS and SEOG programs through a notice the Federal Register.

The Secretary further gives notice that an institution that had a NDSL fund or expended CWS or SEOG funds during the 1984–85 award year is required to report its program expenditures as of June 30, 1985, to the Secretary.

The NDSL, CWS, and SEOG programs are authorized by Parts E, C, and Subpart A–2, respectively, of title IV of the Higher Education Act of 1965. (20 U.S.C. 1087aa–1087ii; 42 U.S.C. 2751–2756b; and 20 U.S.C. 1070b–1070b–3)

Closing Date: In order to ensure consideration for 1986–87 funds, an institution must submit the 1984–85 Fiscal-Operations Report and the 1986–87 Application to Participate in the National Direct Student Loan, Supplemental Educational Opportunity Grant, and College Work-Study Programs (FISAP–OMB No. 1840–0073) by October 4, 1985.

FISAPs Delivered by Mail: A FISAP sent by mail must be addressed to the Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus-Based Programs Branch, 400 Maryland Avenue, SW., (Room 4621, Regional Office Building 3), Washington, D.C. 20202.

An institution must show proof of mailing its FISAP. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark, (3) a dated shipping label, invoice, or receipt from a commercial carrier, or (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If a FISAP is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. An institution is encouraged to use certified or at least first-class mail.

DISAPs Delivered by Hand: A FISAP that is hand-delivered must be taken to the Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus-Based Programs Branch, 7th and D Streets, SW., Room 4621, Regional Office Building 3, Washington, D.C. The Campus-Based Programs Branch will accept hand-delivered FISAPS between 8:00 a.m. and 4:30 p.m. daily (Washington, D.C. time), except Saturdays, Sundays and Federal holidays. A FISAP that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

FISAP Information: FISAPs were mailed by the program office in mid-July. An institution must prepare and submit its FISAP in accordance with the instructions included in the package.

The program information package is intended to aid applicants in applying for assistance under these programs. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the programs.

Applicable Regulations: The following regulations are applicable to these programs:

National Direct Student Loan—34 CFR Parts 674 and 668.

College Work-Study—34 CFR Parts 675 and 668.

Supplemental Educational Opportunity Grant—34 CFR Parts 676 and 668.

FURTHER INFORMATION: For further information, contact Ms. Gloria Easter, Chief, Financial Management Section, Division of Program Operations, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 4621, ROB–3), Washington, D.C. 20202, Telephone (202) 245–2432.

(20 U.S.C. 1087aa *et seq.*; 42 U.S.C. 2751 *et seq.*; and 20 U.S.C. 1070b *et seq.*)

(Catalog of Federal Domestic Assistance Nos. 84.038, National Direct Student Loan Program; 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

Dated: August 29, 1985.

C. Ronald Kimberling,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 85–21089 Filed 9–3–85; 8:45 am]

BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY

[PF–419; FRL–2890–3]

Pesticide Tolerance Petitions; Nor-Am Chemical Co., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF–419] and the petition number, attention Product Manager (PM) named in each petition, at the following address.

Information Services Section (TS–757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

In person, bring comments to:

Information Services Section (TS–757C), Environmental Protection Agency, Room 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (TS–767C), Attn: (Product Manager (PM) named in each petition), Environmental Protection Agency, Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460.

In person: Contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/ telephone number	Address
PM-23, Richard Mountfort.	Rm. 237, CM#2 (703–557–1830).	EPA 1921 Jefferson Davis Hwy, Arlington, VA 22202
PM-25 Robert Taylor.	Rm. 245, CM#2 (703–557–1800).	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions (PP) relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

I. Initial Filings

1. *PP 5F3285.* Nor-Am Chemical Co., 3509 Silverside Rd., P.O. Box 7495 Wilmington, DE 19803. Proposes amending 40 CFR 180.402 by establishing a tolerance for the combined residues of the herbicide diethatyl ethyl and its metabolites (free and bound) determinable as the *N*-acetyl *N*-(2,6-diethylphenyl) glycine derivative in or on the commodity soybeans at 0.20 part per million (ppm). The proposed analytical method for determining residues is gas chromatography. (PM–23)

2. *PP 5F3288.* Dow Chemical U.S.A., P.O. Box 1706, Midland, MI 48640. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the herbicide methyl [2-[4-[(3-chloro-5-(trifluoromethyl)-2-pyridinyl)oxy]phenoxy]propanoate (haloxyfop-methyl), and its metabolite, 2-[4-[(3-chloro-5-(trifluoromethyl)pyridinyl)oxy]phenoxy] propanoic acid (haloxyfop), free and conjugated, all expressed as haloxyfop, in or on certain commodities as follows:

Commodities	Part per million (ppm)
Eggs	0.01
Fat, meat, meat byproducts (mbyp), and liver of cattle, goats, hogs, horses and sheep	.01
Kidney, of cattle, goats, hogs, horses and sheep	.05
Milk	.01
Poultry, fat	.05

Commodities	Part per million (ppm)
Poultry, liver	.1
Poultry, meat, and mbyp	.01
Soybeans	.5

The proposed analytical method for determining residues is gas chromatography using an electron capture detector. (PM–23)

II. Amended Petition

PP 4F3127. E.I. duPont de Nemours & Co., Inc., Wilmington, DE 19898. EPA issued a notice, published in the **Federal Register** of December 5, 1984 (49 FR 47556) which announced that E.I. duPont de Nemours & Co. had submitted pesticide petition 4F3127 to the Agency proposing to amend 40 CFR 180 by establishing tolerances for residues of the herbicide metsulfuron methyl, (methyl-2-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl]amino] carbonyl]amino]sulfonyl]benzoate) in or on the commodities as follows:

Commodities	Part per million (ppm)
Barley and wheat grain	0.05
Fat, meat and mbyp (except liver and kidney) of cattle, goats, hogs, horses and sheep	.1
Green forage of barley and wheat	5.0
Milk	.05
Kidney and liver of cattle, goats, hogs, horses and sheep	.1
Straw of barley and wheat	.1

E.I. duPont de Nemours & Co., Inc. has amended the petition by adding the commodities barley hay and wheat hay at 20.0 ppm.

The proposed analytical method for determining residues is liquid chromatography using an ultra violet detector and reversed-phase liquid chromatography (RPLC). (PM–25).

Authority: 21 U.S.C. 346a.

Dated: August 23, 1985.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85–20929 Filed 9–3–85; 8:45 am]

BILLING CODE 6560–50–M

[OPP–240065; FRL–2890–4]

State Registrations of Pesticides; Alabama et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registrations of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 25 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

DATE: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT:

Owen Beeder, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C.

Office location and telephone number: Room 726A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–7116).

SUPPLEMENTARY INFORMATION: This notice lists the section 24(c) applications submitted to the Agency. The Agency has 90 days to approve or disapprove each application listed in this notice. Applications that are not approved are returned to the appropriate State for action. Most of the registrations listed below were received by the EPA in May 1985. Receipts of State registrations will be published periodically. Of the following registrations, none involve a changed-use pattern (CUP). The term "changed-use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from a nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

Alabama

EPA SLN No. AL 85 0004. Dow Chemical Co. Registration is for Telone II Soil Fumigant to be used on soybeans to control nematodes. June 11, 1985.

EPA SLN No. AL 85 0006. Chevron Chemical Co. Registration is for Triforine EC to be used on plants to control entomosporium leaf spot disease. May 2, 1985.

EPA SLN No. AL 85 0007. Shell Chemical Co. Registration is for Phosdrin 4EC Insecticide to be used on watercress to control aphids. May 17, 1985.

Arkansas

EPA SLN No. AR 85 0003. Y–Tex Corp. Registration is for Max-Con Insecticide Ear Tag to be used on beef and dairy cattle to control flies and spinose ear ticks. May 30, 1985.

EPA SLN No. AL 85 0004. ICI Americas, Inc. Registration is for Gramoxone Paraquat Herbicide to be used on alfalfa to control weeds between cuttings. May 30, 1985.

California

EPA SLN No. CA 85 0007. Mobay Chemical Corp. Registration is for Nemacur 3 Emulsifiable to be used on citrus (grapefruits lemons, limes, oranges, and tangarines) to control nematodes. February 14, 1985.

EPA SLN No. CA 85 0008. Degesch America, Inc. Registration is for Degesch Magtoxin Fillet-Prepac to be used on food and feed processing equipment and conveyers to control confused flour beetles and red flour beetles. February 14, 1985.

EPA SLN No. CA 85 0039. Lassen County Dept. of Agriculture. Registration is for Rodent Bait Diphacinone Treated Grain (0.005%) to be used on borrows and runways to control rats, mice, and ground squirrels. June 11, 1985.

EPA SLN No. CA 85 0042. Butte County Agricultural Commissioner. Registration is for Sevin 5 Bait to be used on no-till rice to control armyworms and tomato hornworms. May 2, 1985.

EPA SLN No. CA 85 0043. Pest Detection/Emergency Projects. Calif. Dept. of Food and Agriculture. Registration is for Methyl Bromide, Metho-O-Gas 100, Terr-O-Gas 100, and Metho-O-Gas to be used on nursery stock to control Japanese beetles and West Indian sugar cane borers. June 12, 1985.

EPA SLN No. CA 85 0045. Sutter County. Registration is for Sevana Bird Repellant to be used on wild rice to control blackbirds and cowbirds. June 12, 1985.

EPA SLN No. CA 85 0046. Santa Clara County Health Dept. Registration is for Diphacinone to be used in Santa Clara County to control rats. June 27, 1985.

EPA SLN No. CA 85 0047. Kern County Agric. Commissioner. Registration is for Prowl Herbicide to be used on jojoba to control annual grasses and weeds. June 12, 1985.

Delaware

EPA SLN No. DE 85 0002. Chevron Chemical Co. Registration is for Orthene 755 Soluble Powder to be used on nonbell-type peppers to control aphids. May 30, 1985.

Florida

EPA SLN No. FL 85 0004. The Land, Epcot Center. Registration is for JMS Stylet-Oil to be used on crops grown in the Land, Epcot Center, to mitigate aphid transmission of plant viruses. June 12, 1985.

Georgia

EPA SLN No. GA 85 0002. The Shell Oil Co. Registration is for Biorin Water Miscible Insecticide to be used on pecan shade trees to control black pecan aphids, fallow pecan aphids, pecan leaf phylloxeras, fall webworms, and walnut datana. June 12, 1985.

Hawaii

EPA SLN No. HI 85 0001. The Dow Chemical Co. Registration is for Dursban TC Termiticide Concentrate to be used in crawl space construction, utility poles, and fences to control subterranean termites. July 2, 1985.

Idaho

EPA SLN No. ID 85 0005. FMC Corp. Registration is for Dimethoate 267 to be used on grass seed crops to control aphids, thrips, winter grain mites, and plant bugs. May 9, 1985.

EPA SLN No. ID 85 0006. American Cyanamid Co. Registration is for Counter Systemic Insecticide-Nematicide to be used on sugar beets at planting to suppress sugar beet cyst nematodes. May 9, 1985.

EPA SLN No. ID 85 0007. The Chas. H. Lilly Co. Registration is for Lilly/Miller Lawn Insect Spray to be used on broccoli, brussels sprouts, cabbage, cauliflower, and Chinese cabbage to control root maggots. May 30, 1985.

EPA SLN No. ID 85 0008. E.I. Du Pont De Nemours & Co., Inc. Registration is for Du Pont Benlate PNW Fungicide to be used on barley to control pseudocercosporella foot rot. May 30, 1985.

EPA SLN No. ID 85 0009. Wilbur-Ellis Co. Registration is for Red-Top Dimethoate 2.67 to be used on lentils to control aphids and lygus. June 11, 1985.

Michigan

EPA SLN No. MI 85 0003. E.I. DuPont de Nemours & Co. Registration is for DuPont Vydate L Insecticide/Nematicide to be used on mint to control nematodes. July 27, 1985.

EPA SLN No. MI 85 0004. ICI Americas, Inc. Registration is for Gramoxone Paraquat Herbicide to be used on alfalfa to control weeds. July 27, 1985.

EPA SLN No. MI 85 0005. ICI Americas, Inc. Registration is for Gramoxone Paraquat to be used on asparagus to control weeds. June 27, 1985.

EPA SLN No. MI 85 0006. Dow Chemical U.S.A. Registration is for Lorsban 4E to be used on dry bulb onions to control onion maggots. June 27, 1985.

Missouri

EPA SLN No. MS 85 0002. Universal Cooperatives, Inc. Registration is for Paraquat Plus to be used on asparagus, cotton, alfalfa, corn, lettuce, melons, peppers, sorghum, sugar beets, tomatoes, safflower, sunflowers, barley, and wheat to control emerged annual broadleaf weeds and grasses. May 9, 1985.

Montana

EPA SLN No. MT 85 0002. American Cyanamid Co. Registration is for Counter Systemic Insecticide Nematicide to be used on sugar beets at planting to suppress sugar beet cyst nematodes. May 30, 1985.

EPA SLN No. MT 85 0004. Universal Cooperatives, Inc. Registration is for Paraquat Plus to be used on lands used for planting crops to control cheatgrass (downy brome, chess), kochia, Russian thistle, volunteer wheat, and barley. June 11, 1985.

Nebraska

EPA SLN No. NE 85 0001. Magna Corp. Registration is for Magnacide H Herbicide to be used on irrigation canals to control submersed and floating weeds and algae. May 9, 1985.

Nevada

EPA SLN No. NV 85 0004. Uniroyal, Inc. Registration is for Maintain CF 125 to be used on ornamental olive trees for fruit prevention. June 12, 1985.

EPA SLN No. NV 85 0003. Leffingwell. Registration is for Maintain GF 125 to be used on trees, shrubs, and vines to control grasses and broadleaf weeds. June 12, 1985.

New Jersey

EPA SLN No. NJ 85 0003. New Jersey Dept. of Agriculture. Registration is for carboxide to be used on beekeeping equipment to control honey bee disease. February 7, 1985.

New Mexico

EPA SLN No. NM 85 0001. Chevron Chemical Co. Registration is for Ortho Paraquat Plus to be used on alfalfa to control weeds between cuttings. January 16, 1985.

EPA SLN No. NM 85 0004. Ciba Geigy Corp. Registration is for Dual 8E Herbicide to be used on chili peppers to control annual grasses and broadleaf weeds. June 11, 1985.

EPA SLN No. NM 85 0005. ICC Americas, Inc. Registration is for Gramoxone Paraquat Herbicide to be used on alfalfa to control weeds between cuttings. June 12, 1985.

North Carolina

EPA SLN No. NC 85 0004. Rohm and Haas Co. Registration is for Goal 1.6E Herbicide to be used on field corn to control witchweeds. June 11, 1985.

North Dakota

EPA SLN No. ND 85 0003. American Cyanamid Co. Registration is for Prowl Herbicide to be used on no-till sunflowers to control weeds. May 30, 1983.

Oklahoma

EPA SLN No. ND 85 0001. Degesch America Co. Registration is for Degesch Magtoxin Pellets-Prepac to be used on bins, silos, holding tanks, food and feed-processing equipment, and conveyers to control confused flour beetles and red flour beetles. January 16, 1985.

EPA SLN No. OK 85 0002. Chevron Chemical Co. Registration is for Diquat Herbicide-H/A to be used on Bermudagrass in lawns, parks, and golf courses to suppress emerged annual broadleaf and grassy weeds, little barley, annual bluegrass, bromes, buttercups, and Carolina geraniums. February 1, 1985.

EPA SLN No. OK 85 0003. Y-Tex Corp. Registration is for Max-Con Insecticide Ear Tag to be used on beef and dairy cattle to control flies, Gulf Coast ticks, and lice. May 9, 1985.

EPA SLN No. OK 85 0004. Ciba-Geigy Corp. Registration is for D.Z.N. Diazinon 14G to be used on container-grown ornamental nursery stock to control carrot beetle (*Bothymus gibbosus*) larva. May 30, 1985.

Oregon

EPA SLN No. OR 85 0001. Pacific Bulb Growers Assn. Registration is for Furlow/Budnip to be used in field-grown Easter lilies to control flower buds and to reduce the occurrence of *Botrytis* disease caused by decaying flowers. February 1, 1985.

EPA SLN No. OR 85 0002. U.S. Fish and Wildlife Service. Registration is for Compound DRC–1339 98% Concentrate to be used on the Malheur National Wildlife Reserve where sandhill cranes nest and forage to control common ravens. February 1, 1985.

EPA SLN No. OR 85 0021. Rohm and Haas Co. Registration is for Goal 1.6E Herbicide to be used on dormant

cottonwood plantings to control weeds. May 10, 1985.

EPA SLN No. OR 85 0022. E.I. DuPont de Nemours & Co. Registration is for DuPont Benlate PNW Fungicide to be used on barley to control pseudocercosporella foot rot. May 2, 1985.

EPA SLN No. OR 85 0023. Pacific Bulb Growers Assn. Registration is for Karmec Herbicide to be used on field-grown Easter lilies to control annual broadleaf and grassy weeds. May 10, 1985.

EPA SLN No. OR 85 0024. FMC Corp. Registration is for Furadan 4 Flowable to be used on grapes to control black vine weevils. May 10, 1985.

EPA SLN No. OR 85 0025. Shell Chemical Co. Registration is for Bladex 80W to be used on field corn to control sandbur, johnsongrass seedlings, fall panicum, and witchgrass. May 10, 1985.

EPA SLN No. OR 85 0026. Shell Chemical Co. Registration is for Bladex 4L to be used on field corn to control sandbur, johnsongrass seedlings, fall panicum, and witchgrass. May 10, 1985.

EPA SLN No. OR 85 0027. ICI Americas, Inc. Registration is for Gramoxone Paraquat Herbicide Mint to be used on dormant mint to control emerged annual broadleaf weeds and grasses. May 17, 1985.

EPA SLN No. OR 85 0028. J.R. Simplot Co. Registration is for Dimethoate 2.67 EC to be used on lentils to control aphids and lygus bugs. May 30, 1985.

EPA SLN No. OR 85 0029. Union Oil Co. of California. Registration is for N-TAC Herbicide to be used on onions, trees, vineyards, and alfalfa to control weeds. May 30, 1985.

EPA SLN No. OR 85 0030. Wilbur-Ellis Co. Registration is for Red-Top Dimethoate 2/67 EC to be used on lentils to control aphids and lygus bugs. June 12, 1985.

EPA SLN No. OR 85 0031. Dow Chemical Co. Registration is for Lorsban 4E Insecticide to be used on radishes to control garden symphylans and cutworms. June 12, 1985.

EPA SLN No. OR 85 0032. Dow Chemical Co. Registration is for Lorsban 4E Insecticide to be used on clover grown for seed to control garden symphlyans, armyworms, aphids, weevils, lygus, and spittlebugs. June 12, 1985.

EPA SLN No. OR 85 0033. FMC Corp. Registration is for Diazinon 3 Dust to be used on houses and buildings to control cockroaches, ants, silverfish, carpet beetles, spiders, and scorpions. June 12, 1985.

Pennsylvania

EPA SLN No. PA 85 0001. Pennwalt Corp. Registration is for Agclor to be used on apples, asparagus, cabbage, carrots, cauliflower, celery, cherries, cucumbers, lettuce, mushrooms, nectarines, onions, peaches, pears, peppers, potatoes, prunes, quinces, and radishes after harvest to control organisms causing decay. February 25, 1985.

EPA SLN No. PA 85 0003. Shell Chemical Co. Registration is for Phosdrin 4EC Insecticide to be used on watercress to control aphids. May 9, 1985.

Rhode Island

EPA SLN No. RI 85 0001. Universal Cooperatives, Inc. Registration is for Paraquat Plus to be used on alfalfa to control weeds between cuttings. June 12, 1985.

EPA SLN No. RI 85 0002. Abbott Laboratories. Registration is for Vectobac-AS Biological Mosquito and Blackfly Larvacide to be used on trickle filter system of sewage filter plants against sewer filter flies. July 2, 1985.

EPA SLN No. RI 85 0003. ICI Americas, Inc. Registration is for Gramoxone Paraquat to be used on alfalfa to control weeds between cuttings. July 3, 1985.

Tennessee

EPA SLN No. TN 85 0002. Pennwalt Corp. Registration is for Aquathol "K" Aquatic Herbicide to be used on irrigation and drainage canals, ponds, and lakes to control aquatic weeds. May 30, 1985.

EPA SLN No. TN 85 0003. Velsicol Chemical Corp. Registration is for Banvel Herbicide to be used on grain sorghum (milo) to control broadleaf weeds. June 13, 1985.

Texas

EPA SLN No. TX 85 0010. Agricultural Div.-Ciba Geigy Corp. Registration is for AAtrex herbicide to be used on Bermudagrass on country roads and rights-of-way to control annual weeds. May 17, 1985.

Washington

EPA SLN No. WA 85 0019. Patterson Green Up Co. Registration is for 5% Diazinon Crawling Insect Control Granules to be used on home lawns and turf to control European crane flies (leather jackets). May 2, 1985.

EPA SLN No. WA 85 0021. Union Carbide Agricultural Products Co., Inc. Registration is for Weedar 64 Broadleaf Herbicide to be used on irrigation and drainage ditches, roadsides, fence rows, and general industrial areas to control broadleaf weeds and brush. May 2, 1985.

EPA SLN No. WA 85 0022. Wilbur Ellis Co. Registration is for Red-Top Spray Sulfur to be used on spearmint to control powdery mildew. May 2, 1985.

EPA SLN No. WA 85 0023. Rohm and Haas Co. Registration is for Goal 1.6E Herbicide to be used on dormant cottonwood plantings to control broadleaf weeds. May 2, 1985.

EPA SLN No. WA 85 0024. ICI Americas, Inc. Registration is for Gramoxone Paraquat Herbicide to be used on dormant mint to suppress emerged annual broadleaf weeds and grasses. May 9, 1985.

EPA SLN No. WA 85 0025. Dow Chemical Co. Registration is for Lorsban 4E Insecticide to be used on carrots grown for seed to control cutworms and lygus bugs. May 17, 1985.

EPA SLN No. WA 85 0026. J.R. Simplot Co. Registration is for Dimethoate 2.67 EC to be used on lentils to control aphids and lygus bugs. May 30, 1985.

EPA SLN No. WA 85 0027. Wilbur-Ellis Co. Registration is for Red-Top Dimethoate 2.67 EC to be used on lentils to control aphids and lygus bugs. May 30, 1985.

EPA SLN No. WA 85 0028. Shell Chemical Co. Registration is for Bladex 80W Herbicide to be used on field corn to control grasses and weeds. May 30, 1985.

EPA SLN No. WA 85 0033. Chevron Chemical Co. Registration is for Ortho Diquat to be used on potatoes for desiccation of potato plants for harvest. July 3, 1983.

West Virginia

EPA SLN No. WV 85 0001. Universal Cooperatives, Inc. Registration is for Paraquat + Plus to be used on watercress to control aphids. April 2, 1985.

EPA SLN No. WV 85 0002. Shell Chemical Co. Registration is for Phosdrin 4 EC Insecticide to be used on watercress to control aphids. May 30, 1985.

(Sec. 24, as amended, 92 Stat. 835 (7 U.S.C. 136))

Dated: August 20, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

[FR Doc. 85-20928 Filed 9-3-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-66124; FRL-2890-5]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the names of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended.

EFFECTIVE DATE: October 4, 1985.

ADDRESS:

By mail, submit comments to:
Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

In person, bring comments to: Room 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Lela Sykes, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Office location and telephone number: Room 718C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-2126).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
77-14	Solvit Chemical Company Space Spray Insecticide Synergised Pyrethrum Type	Solvit Chemical Co., Inc., 7001 Raywood Rd., Madison, WI 53713	Mar. 6, 1969.
106-33	Epitaph Aerosol for Insects	Brulin and Co., Inc., 2929 Martindale Ave., Indianapolis, IN 46205	June 16, 1954.
106-48	Brulin's Formula No. 200	do	Sept. 24, 1974.
134-52	Cattle Louse Powder	Hess and Clark, Inc., 7th and Orange St., Ashland, OH 44805	May 21, 1971.
134-61	Pyrenone Dairy Aerosol	do	Jan. 28, 1974.
148-636	De-Pester Premium Malathion E-5	Thompson-Hayward Chemical Co., 5200 Speaker Rd., Kansas City, KS 66110	June 6, 1968.
148-1136	De-Pester Vaporizer Concentrate 2.4-0.3	do	Feb. 27, 1974.
148-1176	S-339 Solution	do	Dec. 4, 1974.
148-1181	S-475 Solution	do	Feb. 28, 1975.
148-1184	S-674 Solution	do	Mar. 6, 1975.
148-1185	S-681 Solution	do	Feb. 14, 1975.
148-1186	S-699 Solution	do	Apr. 21, 1975.
148-1188	S-745 Solution	do	Jan. 25, 1975.
148-1190	S-747 Solution	do	Jan. 22, 1975.
239-23	Ortho Bug-Geta Pellets	Chevron Chemical Co., Ortho Division, 940 Hensley St., Richmond, CA 94501	Feb. 9, 1966.
239-57	Ortho Instant Blue-Stone	do	June 1, 1965.
239-61	Sodite Grape Spray	do	Mar. 27, 1963.
239-74	Metag Agricultural Bait (Pellets)	do	Apr. 30, 1958.
239-289	Ortho Arsenical Weed Killer	do	July 18, 1955.
239-561	Metag-XX Agricultural Bait (Pellets)	do	Oct. 18, 1951.
239-612	Ortho Methoxychlor 50 Wettable	do	June 24, 1952.
239-625	Ortho Fly Spray	do	June 24, 1952.
239-778	Ortho Fly Killer Dry Bait	do	Sept. 17, 1954.
239-848	Ortho Karathane 1 Dust	do	Jan. 27, 1956.
239-914	Ortho Perthane 10 Dust	do	Dec. 10, 1956.
239-1241	Ortho C-B Weed Killer	do	Oct. 31, 1958.
239-1262	Orthocide Karathane 50-6 Wettable	do	Jan. 6, 1959.
239-1365	Ortho Perthane 4 Emulsive	do	June 5, 1957.
239-1540	Orthocide Malathion-Methoxychlor 65-1.5-10 Seed Protectant	do	July 15, 1960.
239-1832	Ortho Fly Spray 101	do	June 10, 1963.
239-1860	Ortho Maneb 80 Fungicide	do	Feb. 6, 1964.
239-1863	Ortho Methoxychlor 2 Emulsive	do	Feb. 20, 1964.
239-2200	Ortho Dibrom Kelthane Phaltan 3-3-7.5 Dust	do	Aug. 16, 1966.
239-2261	Ortho Yard and Patio Insect Fogger	do	June 6, 1968.
239-2311	Orthocide Dibrom Kelthane 5-4-4 Dust	do	June 29, 1970.
239-2313	Ortho Dormant Peach Disease Control	do	Apr. 8, 1970.
239-2355	Orthocide Methoxychlor 65-5 Seed Protectant	do	Apr. 15, 1971.
239-2362	Ortho Lawn Food Plus	do	June 4, 1971.
239-2379	Ortho Yard and Patio Fogger	do	Nov. 5, 1971.
239-2405	Orthocide Maneb 30-30 Seed Protectant	do	Nov. 28, 1972.
239-2409	Ortho Difolatan Methoxychlor 70-5 Seed Protectant	do	Mar. 30, 1973.
257-138	Vitazone Tick and Flea Killer	Collo Chemical Co., 1354 Old Post Rd., Havre de Grace, MD 21078	Mar. 11, 1958.
257-195	CSHI Disinfectant Germicidal and Fungicidal Conc	do	Feb. 15, 1962.
407-310	Pyrenone All-Purpose Spray	Imperial Chemical Co., Inc., P.O. Box 423, Shenandoah, IA 51601	Nov. 30, 1971.
527-75	D-D Disinfectant Deodorant	Midland Laboratories, Inc., a Division of Rochester Germicide Co., P.O. Box 5196, Des Moines, IA 50306.	Feb. 7, 1968.
572-92	Rockland Penta-Penn Wood Preservative	Rockland Chemical Co., P.O. Box 204, Caldwell, NJ 07006	Apr. 11, 1961.
572-96	Rockland Creosote	do	Apr. 27, 1961.
572-100	Rockland Penta Concentrate	do	July 11, 1961.
572-121	Rockland Horse Spray Pressurized	do	Nov. 2, 1962.
572-124	Rockland Residual Fly Spray	do	Dec. 17, 1962.
572-132	I.B.A. Residual Fly Spray	do	June 24, 1963.
572-196	Rockland Ready "Sponge-On"	do	Feb. 12, 1968.
572-284	Rockland Residual Fly Spray	do	Apr. 23, 1975.
595-203	Perthane Malathion Dust No. 64	Haviland Agricultural Chemical Co., 1845 Sterling NW., Grand Rapids, MI 49502.	July 11, 1960.
595-223	Haviland Methoxychlor Elm Spray	do	Oct. 15, 1965.
595-317	3% Methoxychlor 5% Copper Dust	do	Sept. 7, 1971.
602-135	Purina Roach and Ant Killer	Ralston-Purina Co., Checkerboard Square, 835 S. 8th St., St. Louis, MO 63188.	Feb. 7, 1968.
602-157	Purina Yard and Patio Fog	do	Nov. 18, 1969.
602-177	Purina Ravap Insecticide	do	Jan. 22, 1971.
602-213	Purina Liquid Fly Larvicide	do	May 2, 1972.

Registration No.	Product name	Registrant	Date registered
602-264	Purina Fly Larvicide	do	May 4, 1979.
604-24	Hammond's Slug Shot All-Purpose Insecticide/Fungicide Dust Rotenone .75%	Hammond Paint and Chemical Inc., P.O. Box 292, Westwood, MA 02090	Sept. 23, 1948.
642-126	Aphis-Mildew Spray	Thompson Chemicals Corp., 23529 S. Figueroa St., Wilmington, CA 90744	Apr. 14, 1958.
642-155	Gard-Chem Aphis-Mildew Spray	do	Apr. 11, 1963.
642-197	Karathane Fungicide Spary	do	Apr. 13, 1967.
827-178	Agrico Pre-Emergence Crabgrass Control	Agrico Chemical Co., Division of Continental Oil Co., P.O. Box 346, Memphis, TN 38101.	Jan. 3, 1962.
869-128	Green Light Aspon Lawn Chinch Bug Killer	Green Light Co., P.O. Box 17985, San Antonio, TX 78217	May 31, 1972.
904-137	Pratt Flowable Sevin	Pratt-Gabriel Division Miller Chemical and Fertilizer Corp., 204 21st Ave., Patterson, NJ 07509.	Feb. 18, 1965.
904-196	Pratt Turf Insect Spray	do	June 8, 1972.
904-369	Gabriel Methoxychlor 25E	do	Mar. 2, 1967.
904-390	Methoxychlor 50% Wettable Powder	do	Aug. 19, 1968.
904-393	Methoxychlor 10% Granular	do	Sept. 11, 1968.
904-394	Methoxychlor 20% Oil Concentrate	do	Sept. 16, 1968.
904-403	Gabriel Methoxychlor-DDVP Emulsifiable Concentrate	do	Aug. 15, 1969.
912-29	Co-op Backrubber Oil with Ciodrin 1%	Farmers Union Central Exchange, P.O. Box 43069, St. Paul, MN 55164	July 1, 1963.
912-39	Co-op 20-20-12 Systemic T	do	May 20, 1968.
912-40	Cenex 9-23-30 Systemic D Fertilizer Plus Insecticide	do	Sept. 25, 1968.
912-42	Cenex 9-23-30 Systemic D	do	Dec. 6, 1968.
912-43	Cenex 9-23-30 Systemic D Fertilizer Plus	do	Do.
912-55	Greenhouse Brand Rose Dust	do	Jan. 20, 1972.
912-58	Greenhouse Fruit Spray	do	Jan. 28, 1972.
912-60	Greenhouse Tomato and Garden Dust	do	Nov. 9, 1972.
912-75	Greenhouse Brand Simazine 4G	do	Apr. 12, 1973.
962-340	Lacco White Arsenic	Los Angeles Chemical Co., 4545 Ardine St., Southgate, CA 90280	Jan. 23, 1968.
1021-423	Pyrocide Aerosol Mix #1589	McLaughlin Gormley King Co., 1715 SE. Fifth St., Minneapolis, MN 55414	Apr. 29, 1956.
1021-486	Pyrocide Pressurized Pet Spray Mix #5569	do	Feb. 6, 1958.
1021-509	Pyrocide Aerosol Mix #1657	do	May 2, 1958.
1021-565	Pyrocide Aerosol Mix #5849	do	Jan. 8, 1960.
1021-634	Pyrocide Pressurized Pet Spray Mix #6042	do	Apr. 27, 1961.
1021-831	Pyrocide Aerosol Mix #6621	do	Aug. 20, 1965.
1021-890	Pyrocide Aerosol Mix #1533	do	Jan. 11, 1967.
1021-1002	Pyrocide Pressurized Plant Spray #5898	do	Sept. 25, 1968.
1021-1158	Pyrocide Pet Concentrate Spray #7058	do	May 21, 1971.
1057-47	Puritex Disinfectant Spray	C.B. Dolge Co., P.O. Box 1515 Rochester, NY 14603	Mar. 3, 1964.
1145-137	Bovinol Backrubber Oil	The Cropmate Co.; 320 Embassy Plaza Omaha, NE 68114	May 21, 1971.
1193-26	Wonderful 707 Formula Insect Bomb	707 Company 1530 Sullwell Ave. New York, NY 10461	Jan. 15, 1957.
1193-35	707 House and Garden Insect Bomb	do	July 14, 1958.
1193-61	707 Jack Pot Formula	do	July 10, 1970.
1269-47	D.P. 116 Dairy Sanitizer	Dewitt Chemical Co.; P.O. Box 343, Atlanta, GA 30301	Dec. 14, 1962.
1269-86	Dewitt Formula 2056 Concentrated Insecticide	do	May 5, 1967.
1269-101	Dewitt Fogger Municipal Spray	do	Mar. 5, 1969.
1270-37	Zeposector Concentrated Insecticide	Zep Manufacturing Co., P.O. Box 2015, 1310 Seaboard Industrial Blvd., NW., Atlanta, GA 30301.	Jan. 31, 1957.
1270-46	Zep Formula Super Insecticide	do	Oct. 22, 1959.
1270-70	Zep-Lac 46 Dairy Sanitizer	do	Nov. 1, 1963.
1270-121	Zep-O-Fog Municipal Spray	do	Mar. 5, 1969.
1339-163	Cotton States Vapona-2EM	Cotton States Chemical Co., 116 Wassan St., P.O. Box 157 West Monroe, LA 71291	Oct. 26, 1961.
1348-185	Selco Ciodrin Dairy and Livestock Spray	Selco Supply Co., 650 O St., Greeley, CO 80631	July 19, 1963.
1677-40	Soilax Sanitizing Carpet Shampoo	Economics Laboratory, Inc., Osborn Bldg., St. Paul, MN 55102	July 2, 1973.
1677-55	Thermo-San Liquid	do	Sept. 7, 1972.
1677-68	Tykor Klor-EZe	do	Aug. 8, 1950.
1677-69	Kora Gard	do	Feb. 4, 1955.
1677-71	Klor-10 Concentrated Liquid Bactericide and Disinfectant	do	Sept. 7, 1972.
1677-72	Tykor Dynogen-an Iodophor	do	Do.
1696-36	Super Metriocide Industrial Insecticide	Metro Products Co., 4720 Frederick Drive, SW., Atlanta, GA 30336	July 8, 1960.
1750-29	Roach Spray	Best Maintenance Supply co., 1922 E. 7th Place, Los Angeles, CA 90021	Jan. 27, 1959.
1842-154	Die Beetle Garden and Truck Crop Dust	Triangle Chemical Co., P.O. Box 4528, Macon, GA 31208	Apr. 26, 1961.
1927-55	No-Vex Professional Aerosol Insect Killer	Terminix International, Inc., P.O. Box 17167, Memphis, TN 38117	Apr. 22, 1964.
1990-16	Co-op Methoxychlor Emulsifiable Concentrate	Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116	June 8, 1955.
1990-131	Co-op Household Insecticide	do	May 12, 1960.
1990-144	Co-op Economy Backrubber Oil	do	Sept. 21, 1961.
1990-165	Co-op Ciodrin Insectcide Emulsifiable Concentrate	do	Apr. 18, 1963.
1990-167	Co-op Ciodrin Insectcide Dairy and Stock Spray and Backrubber	do	May 24, 1963.
1990-186	Co-op Louse Killer Granular	do	Jan. 6, 1964.
1990-324	Co-op Alfa-Cide	do	Apr. 19, 1968.
1990-325	Co-op Powdered Standard Lead Arsenate	do	July 19, 1968.
1990-328	Co-op Korlan 24E Insecticide	do	Aug. 13, 1968.
1990-374	Co-op Dairy Insecticide	do	May 13, 1974.
1990-396	Techne Dairy Spray	do	Aug. 28, 1950.
1990-410	Woodbury Grain Surface Spray	do	Mar. 20, 1957.
1990-417	Pyrenone Wheat Protectant	do	Oct. 15, 1957.
1990-418	Sure Death Brand Powdered Standard Lead Arsenate	do	Jan. 17, 1967.
1990-441	Woodbury's Vaprin	do	July 26, 1963.
1990-445	Sure Death Brand Oiler Insecticide	do	Jan. 10, 1964.
1990-447	Woodbury's Louse	do	Feb. 13, 1964.
1990-455	Thiodan 2E Emulsifiable Liquid	do	July 11, 1966.
1990-481	Sure Death Brand M-M-4	do	Mar. 18, 1968.
1990-484	Woodbury Water Soluble Rocon Kills Rats and Mice	do	June 26, 1968.
1990-490	Sure Death Brand Insect X	do	Aug. 19, 1968.
1990-493	Woodbury's Dairy Dust	do	Sept. 26, 1969.
1990-500	Cattle Dust Bag 3% Ciodrin Insecticide	do	Feb. 7, 1972.
1990-507	Pyrethrin Insecticide Pressurized Dairy Insecticide	do	May 13, 1974.
2337-23	Sh-Boom Bug Spray	DeMert and Dougherty, Inc., 5000 W. 41st St., Chicago, IL 60650	Apr. 29, 1955.
2337-57	DeMert Fog-A-Yard	do	Mar. 19, 1968.
2382-15	Parid Spray	Carson Chemicals, Inc., P.O. Box 466, New Castle, IN 47362	Apr. 18, 1957.
2749-219	Trifluralin 4EC Herbicide	Aceto Agricultural Chemical Corp., 126-02 Northern Blvd., Flushing, NY 11368	Nov. 14, 1973.
2749-294	Trifluralin Technical Herbicide	do	Jan. 1, 1973.
3442-584	USS Vertagreen Lawn Fertilizer 5-10-5 and Chinch Bug Killer	U.S.S. Agri-Chemicals, Inc., Division of U.S. Steel, P.O. Box 1685, Atlanta, GA 30301.	Dec. 7, 1965.
3442-758	Patterson Root and Crown Rot Control	do	May 4, 1964.

Registration No.	Product name	Registrant	Date registered
3635-83	Oxford Perma Kill Brand Liquid Insecticide	Oxford Chemicals, Inc., P.O. Box 80202, Atlanta, GA 30366	Apr. 7, 1966.
3640-10	No. 33 Insecticide	Stearns Chemical Corp., 4200 Sycamore Ave., Madison, WI 53704	Apr. 8, 1958.
3640-11	No. 66 Insecticide	do	Do.
3640-12	Diazinon Residual Insecticide	do	Apr. 15, 1959.
3640-70	Stearns Insect Bomb	do	Aug. 8, 1974.
4584-46	Flipo Pet Spray	Gem, Inc., #1 Gem Blvd., Byhalia, MS 38611	May 1, 1963.
4584-50	Aerocos Fly and Mosquito Spray	do	Apr. 4, 1966.
4584-54	Space Spray Insecticide	do	Aug. 18, 1966.
4584-55	Aerocos Residual Insect Spray	do	Nov. 4, 1966.
4584-62	Aerocos Flying Insect Killer	do	May 29, 1968.
4584-63	Aerocos House and Garden Insect Killer	do	Do.
4584-73	Aerocos D-Trans Flying Insect Killer	do	June 16, 1971.
4591-37	Lynde Kor-oide Mist Spray	Lynde Chemical Co., 3040 East Hennepin Ave., Minneapolis, MN 55413	June 19, 1963.
4591-39	Lynde Kilo Farm Spray	do	Mar. 27, 1964.
4591-50	Lynde Bata Cide A Ready	do	June 5, 1968.
4591-51	Lynde Bay Cide Concentrated Fogging Insecticide Contains Baytex and Lethane.	do	Do.
4704-35	Magic Circle Industrial Spray Emulsifiable Concentrate	J. C. Erlich Chemical Co., Inc., 800 Hiesters Lane, Reading, PA 19605	Oct. 18, 1973.
4887-11	Stephenson 25% Malathion Wettable Powder	Stephenson Chemical Co., Inc., P.O. Box 87188, College Park, GA 30337	Nov. 9, 1956.
4887-73	Stephenson Chemicals ANTU 20%	do	Sept. 21, 1961.
4887-122	Drop-Tox Potency Spray	do	July 1, 1966.
4887-143	Stephenson Chemicals Rose and Floral Dust	do	Jan. 16, 1971.
4887-153	Stephenson Chemicals Tomato Dust	do	Jan. 20, 1972.
4887-169	Stephenson Chemicals Big D Concentrate	do	Apr. 23, 1973.
5011-103	Carmel Food Protectant Formula F-104	Carmel Chemical Corp., P.O. Box 406, Westfield, IN 46074	Mar. 5, 1970.
5602-49	Kwik Kill Fly Krystals	Hub States Corp., 2002 N. Illinois St., Indianapolis, IN 46202	Mar. 11, 1969.
5602-51	Di-Phos E	do	Apr. 2, 1968.
6129-7	Blitz Fog No. 5 Thermalized Insecticide	McGraw Edison Co., 1701 W. Golf Rd., 1 Continental Towers, Rolling Meadows, IL 60008.	Apr. 24, 1972.
6186-6	Concentrated Insecticide	Damon Chemical Co., Inc., P.O. Box 480, Alliance, OH 44601	June 7, 1960.
6186-7	Fogg-R Insecticide	do	June 9, 1960.
6186-10	Fogg-R Non-Toxic Extra Concentrated	do	Aug. 17, 1962.
6520-1	H and H Kito B	Hamblet and Hayes Co., Colonial Rd., Salem, MA 01970	Jan. 15, 1960.
6520-3	Kito H	do	May 12, 1970.
6720-63	Chinch Bug Spray Insecticide	Southern Mill Creek Products Co., Inc., P.O. Box 1096, Tampa, FL 33601	Sept. 2, 1969.
6720-68	X-Cel Chinch Bug Granules	do	Oct. 8, 1969.
6720-96	SMCP Trithion EM-8	do	Mar. 31, 1970.
6754-15	Professional Malathion Fly Bait with DDVP	Dettlebach Pesticide Corp., 4111 Peachtree Rd., Atlanta, GA 30319	Apr. 11, 1962.
6754-17	Professional 57% Malathion W.E.	do	Apr. 18, 1962.
6754-27	Professional Orkin Concentrate 399	do	Apr. 28, 1964.
6754-60	Orkin Special Fog Spray	do	Sept. 24, 1956.
6754-62	Professional Orkin Special Formula-R-33 DD Grade Insect Powder	do	Apr. 30, 1957.
6962-7	End-Sect Insect Killer	Madison-Bionics 11250 W. Addison St., Franklin Park, IL 60131	June 23, 1964.
6962-8	In-Cide Concentrated Insecticide	do	July 1, 1964.
6962-10	Strafe Insecticide	do	July 7, 1964.
7122-21	Di-Ron O.S.	Archem Corp., 1514 Eleventh St., Portsmouth, OH 45662	Oct. 20, 1961.
7122-22	Di-Ron WE	do	Do.
7122-36	Guardian Super 808 Insecticide	do	Mar. 4, 1966.
7122-46	Guardian Herkol 14WE	do	May 6, 1966.
7455-3	Superswest Pest-O-Kill	Agricultural Products Division, International Multifoods Corp., 1200 Multifoods Bldg., Minneapolis, MN 55402.	May 28, 1964.
7701-15	A Sure Hospital Disinfectant Deodorant	Chemical Specialties, Inc., 149 W. Trigg Ave., Memphis, TN 38106	Aug. 31, 1967.
7701-22	Chem-Spec Hospital Strength Disinfectant Deodorant	do	Nov. 13, 1967.
7943-7	Lawn Life Crabgrass Preventer	Federal Chemical Co., Cranbury, NJ 08512	Mar. 11, 1964.
8006-9	Easy Dairy Oil Contains Clodrin	Easy Chemical and Mfg. Co., Inc., Route 1, Seward, NE 68434	Aug. 6, 1971.
8123-19	Rat Bait	Frank Miller and Sons, Inc., 13813 S. Emerald Ave., Chicago, IL 60627	Feb. 19, 1969.
9640-42	M-40 Algaecide	Clow Corp., Water Management Division, 408 Auburn Ave., Pontiac, MI 48058	May 26, 1972.
9964-1	H and H Products Pentalife Wood Preservative Clear	Hanline Brothers, Inc., 200 S. Franklintown Rd., Baltimore, MD 21223	Dec. 15, 1967.
10120-7	Viro Cerf Powerful Hospital Disinfectant Long Lasting Deodorizer	Cerfact Laboratories, P.O. Box 47645, Atlanta, GA 30340	Jan. 6, 1968.
10226-8	Rockwood Brand Perthane 4 E.C.	Rockwood Chemical Co., P.O. Box 34, Brawley, CA 92217	Mar. 24, 1969.
10226-9	Rockwood Brand Malathion Perthane Dust No. 4-10	do	Apr. 16, 1969.
10233-4	Fleagard Shampoo	Akin Labs 413 East Ogden Ave., Downers Grove, IL 60515	Sept. 1, 1981.
10233-5	Fleagard Pet Dip		Do.
10416-1	Densco Tek-Tex (Chairside)	Dr. Leonard F. Abramson, 3431 East Superior St., Duluth, MN 55802	Nov. 17, 1967.
10455-2	Indoor/Outdoor Dog Repellent	Puppy Palace Enterprises, Inc., 35 South Letitia St., Philadelphia, PA 19106	Apr. 28, 1969.
10455-8	Mint Disinfectant	do	Dec. 28, 1971.
10807-31	Misty Hospital Disinfectant and Deodorant	Amrep, Inc., 990 Industrial Park Drive, Marietta GA 30062	Feb. 27, 1973.
10886-1	Moth Gard	Eaton Labs, Division of Jetronic Industries, Inc., 5th St., and Michigan Ave., Lansdale, PA 19446.	Feb 10, 1971.
13801-15	Trichlorfon Technical	Intrachem S.A. "Le Grebe" 34 Quai de Cologny, 1223 Geneva, Switzerland	May 24, 1972.
13801-16	Malathion Technical	do	Jan 3, 1973.
38110-1	Max-Min Fly Control Mineral with Rabon® Oral Larvicide	Southeastern Minerals, Inc., P.O. Box 506, Bainbridge, GA 31717	Apr. 16, 1979.
38110-2	Super Mol 7.76 Fly Control Premix	do	Aug. 26, 1976.
38110-3	Super Mol Fly Control Mineral Mix	do	Aug. 31, 1976.
40300-2	Sho-Spray	Mainpro, Inc., P.O. Box 5208, Irving, TX 75062	Apr. 6, 1983.
40831-120	Chlorobenzilate Technical	Falls Chemical Co., P.O. Box 6323, Great Falls, MT 59406	Apr. 18, 1973.
40940-1	Chlordane 72% E.C.	Lextron, Inc., P.O. Box BB, Greeley, CO 80632	Apr. 9, 1969.
40940-11	Helena Animal Health 3% Clodrin Dust	do	Apr. 26, 1974.
40940-12	Clodrin and Vapona Insecticide	do	Jan. 6, 1975.
40940-15	Clodrin and Vapona Insecticide E.C.	do	Apr. 24, 1974.
52237-1	Death-O-Cide Cockroach and Ant Killer	Death-O-Cide Products, P.O. Box 142, Leroy, AL 36548	June 1, 1984.

The Agency has agreed that each cancellation shall be effective (October 4, 1985) unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue until the supply is exhausted, or for one year from the effective date of cancellation. Other persons may continue to sell and distribute these products until the supply is exhausted. Continued sale and use of such existing

stocks has been determined to be in accordance with the provisions of FIFRA and must be consistent with the label and labeling approved by EPA. Production of these products after the effective date of cancellation is prohibited and would be a violation of FIFRA.

Requests that the registration of these products be continued may be submitted in triplicate to the Registration Support and Emergency Response Branch, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66124]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in Room. 236, CM#2, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136d.

Dated: August 23, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

[FR Doc. 85-20927 Filed 9-3-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00212; FRL 2890-8]

State-FIFRA Issues Research and Evaluation Group (SFIREG); Open Meeting of Working Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 2-day meeting of the Working Committee on Ground-water Protection and Disposal (WC/GPD) of the State FIFRA Issues Research and Evaluation Group (SFIREG). The meeting will be open to the public.

DATES: Monday, September 23 and Tuesday, September 24, 1985, beginning at 8:30 a.m. each day and concluding by 4:30 p.m., Tuesday, September 24.

ADDRESS: The meeting will be held at: Hyatt Regency—Crystal City, 2799 Jefferson Davis Highway, Arlington, VA. 22202 (703-486-1234).

FOR FURTHER INFORMATION CONTACT:

By mail, Philip H. Gray, Jr., Office of Pesticide Programs (TS-766C), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Office location and telephone number: Room 1115 Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7096).

SUPPLEMENTARY INFORMATION: This will be the second meeting of the Working Committee on Ground-water Protection and Disposal (WC/GPD), established pursuant to EPA's grant to the Association of American Pesticide Control Officials, which established SFIREG. The purpose of the WC/GPD is to consider pesticide-related aspects of ground-water protection and disposal of pesticide waste, excess pesticides and used pesticide containers, and to make recommendations, through the full SFIREG, regarding Agency policies in these key areas. The meeting of the Working Committee will be concerned with the following topics:

1. Disposal of rinsate resulting from washing of aircraft.
2. FIFRA-RCRA interface.
3. Status of Office of Pesticide Programs (OPP) action plan for implementation of OPP-Office of Solid Waste agreement to work together on questions of pesticide disposal.
4. Underground storage of pesticide rinsate.
5. Survey of State pesticide disposal concerns.
6. Summary of July 30-31 Cincinnati meeting on disposal technology research needs.
7. Status of Office of Drinking Water (ODW)-OPP National Drinking Water Survey.
8. Status of FY '85 supplementary funding for State ground-water protection programs.
9. Status report on OPP regulatory actions concerning ground-water protection.
10. Status of educational efforts by USDA-EX to protect ground-water.
11. Other topics as appropriate.

Dated: August 16, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

[FR Doc. 85-20925 Filed 9-3-85; 8:45 am]

BILLING CODE 6560-50-M

[A-9-FRL-2891-6]

Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to Thermal Power Company (EPA Project Number NC 84-01)

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice is hereby given that on May 20, 1985 the Environmental Protection Agency issued a PSD permit under EPA's federal regulations 40 CFR § 52.21 to the applicant named above. The PSD permit grants approval to construct a 25-megawatt geothermal-electric power plant, to be located in Bear Canyon, Lake County, California. The permit is subject to certain conditions, including an allowable emission rate as follows: H_2S at 2.0 lbs./hr.

FOR FURTHER INFORMATION: Copies of the permit are available for public inspection upon request; address request to: Matt Haber (A-3-1), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8209, FTS 454-8209.

SUPPLEMENTARY INFORMATION: Best Available Control Technology (BACT) requirements include the use of the Stretford process, hydrogen peroxide/catalyst to treat condensate, and turbine bypass.

DATE: The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by November 4, 1985.

Dated: August 23, 1985.

Carl C. Kohnert,

Acting Director, Air Management Division, Region 9.

[FR Doc. 85-21028 Filed 9-3-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1535]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

August 28, 1985.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to § 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Denver, Colorado) (MM Docket No. 83-385, RM-4292 & MM Docket No. 83-1023, RM-4475).

Filed by: Colby M. May, Attorney for Trinity Broadcasting of Denver, Inc., on 8-7-85.

Subject: Amendment of Part 97 of the Commission's Rules to Permit Volunteer-Examiner Coordinators (VEC's) to Maintain Pools of

Questions for Amateur Operator Examinations. (PR Docket No. 85-196).
Filed by: Robert A. Scupp, (WB5YYX) on 8-19-85.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-21037, Filed 9-3-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Citizens Bancshares of Loyal, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 25, 1985.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Bancshares of Loyal, Inc.*, Loyal, Wisconsin; to become a bank holding company by acquiring 97.8 percent of the voting shares of Citizens State Bank of Loyal, Loyal, Wisconsin.

2. *The Indiana National Corporation*, Indianapolis, Indiana; to merge with Lowell National Bancrop, Lowell, Indiana, thereby indirectly acquiring Lowell National Bank, Lowell, Indiana.

3. *Tri City Bankshares Corporation*, Oak Creek, Wisconsin; to acquire 2.8 percent of the voting shares of First National Bank of Eagle River, Eagle River, Wisconsin.

Board of Governors of the Federal Reserve System, August 28, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-21013 Filed 9-3-85; 8:45 am]

BILLING CODE 6210-01-M

Manufacturers Hanover Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activitives

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 23, 1985.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Manufacturers Hanover Corporation*, New York, New York; to acquire certain receivables of Amhoist Creditcorp., Minneapolis, Minnesota; thereby engaging in making commercial finance loans.

Board of Governors of the Federal Reserve System, August 28, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-21014, Filed 9-3-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreement; Hepatitis B Vaccine Trial Follow-Up; Availability of Funds for Fiscal Year 1986

The Centers for Disease Control (CDC) announces the availability of funds for Fiscal Year 1986 for continuation of Hepatitis B Vaccine Trial Followup. The Catalog of Federal Domestic Assistance Number is 13.978. This program is authorized by section 318(b) of the Public Health Service Act (42 U.S.C. 247c(b)), as amended.

The San Francisco Department of Health, San Francisco, California, Howard Brown Memorial Clinic, Chicago, Illinois, and Denver Department of Health & Hospitals, Denver, Colorado, were participants in the original CDC multicenter Hepatitis B Virus (HBV) vaccine trial in homosexual men and have continued to follow recipients. The objectives relate specifically to followup of recipients of vaccine in the original multicenter trial.

During Fiscal Year 1986, it is expected that approximately $104,000 will be available for this project. From this amount, three awards will be made from competing continuation applications for HBV vaccine trial followup ranging from approximately $28,000 to $39,000 with the average award being $35,000. No new applications are being accepted in Fiscal Year 1986 for any of the above funds.

Awards will be for a 2-year project period with annual budget periods. Funding estimates outlined above may vary and are subject to change due to budgetary uncertainties.

Applications are subject to the review requirements of the National Health Planning and Resources Development Act of 1974, as amended, and Executive Order 12372 (60-day review). Information may be obtained from the individuals listed below:

FOR FURTHER INFORMATION CONTACT:

Technical:

Dr. Stephen Hadler, Hepatitis Branch, Center for Infectious Diseases, Centers for Disease Control,

Atlanta, GA 30333, Telephone: (404) 321-2346 or FTS 236-2346

Business:

Nancy Bridger, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 321, Atlanta, GA 30305, Telephone: (404) 262-6575 or FTS 236-6575

Dated: August 23, 1985.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 85-21011 Filed 9-3-85; 8:45 am]

BILLING CODE 4160-18-M

Open Meeting; Pediatric Screening for Lead Poisoning and Iron Proficiency Utilizing Protoporphyrin Assays

The Centers for Disease Control and the Health Resources and Services Administration will bring together a group of experts to exchange information concerning issues and problems relating to the use of protoporphyrin tests to detect lead poisoning and iron deficiency among children. Quality control, instrumentation, standardization, calibration, and standards will be topics of interest to the group. The discussions of the working group will be open to the public, limited only by the space available.

Date: September 9-10, 1985.

Time: 9:30 am—4:30 pm.

Place: Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 9-09-85; Room B (3rd Floor), 9-10-85: Room 17-09A (17th Floor).

Additional information may be obtained from: James M. Simpson, Division of Environmental Hazards and Health Effects, Center for Environmental Health, Centers for Disease Control, Atlantia, Georgia 30333, Telephones: FTS: 236-4191, Commercial: (404) 452-4191.

Dated: August 29, 1985.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 85-20627 Filed 9-3-85; 8:45 am]

BILLING CODE 4160-78-M

Food and Drug Administration

[Docket No. 85F-0376]

American Enka Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that American Enka Co. has filed a petition proposing that the food additive regulations be amended to provide for an increase in the weight percent of polymer units derived from ethylene terephthalate in ethylene terephthalate-isophthalate copolymers.

FOR FURTHER INFORMATION CONTACT: Edward J. Machuga, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 5B3871) has been filed by American Enka Co., Enka, NC 28728, proposing that § 177.1630 *Polyethylene phthalate polymers* (21 CFR 177.1630) be amended to provide for an increase in the weight percent of polymer units derived from ethylene terephthalate in ethylene terephthalate-isophthalate copolymers.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: August 23, 1985.

John M. Taylor,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-21001 Filed 9-3-85; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Meetings

Correction

In FR Doc. 85-19154, beginning on page 32640, in the issue of Tuesday, August 13, 1985, make the following corrections:

1. On page 32640, third column, second complete paragraph, the sixth line should read: "public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever".

2. On page 32641, first column, fifth line, insert the word "an" between "make" and "oral".

BILLING CODE 1505-01-M

Health Resources and Services Administration

Health Maintenance Organization; Qualification of Entities

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice; qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and dates of qualification of entities determined by the Secretary to be federally qualified health maintenance organizations (HMOs).

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Associate Director for Health Maintenance Organizations, Bureau of Health Maintenance Organizations and Resources Development, Room 9-05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4106.

SUPPLEMENTARY INFORMATION: Regulations (42 CFR 110.605(d)) issued under Title XIII of the Public Health Service Act (the Act) require that a list and description of all newly qualified HMOs be published on a periodic basis in the **Federal Register.** This notice is an accumulation of information regarding those HMOs that have been qualified since the last such list was published on March 5, 1985. There are three categories of qualified HMOs: operational, transitionally qualified, and preoperational (see 42 CFR 110.602 and 110.603). This list includes HMOs that have changed from one category to another.

The following entities have been determined to be qualified HMOs under section 1310(d) of the Act (42 U.S.C. 300e-9(d)):

Operational Qualified Health Maintenance Organizations: 42 CFR 110.603(a)

1. Physicians Association of Clackamas County (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 18600 S.E. McLoughlin Boulevard, Gladstone, Oregon 97027. On March 29,1979, Physicians Association of Clackamas County was approved as a transitionally qualified HMO (see 42 CFR 110.603(b)). On June 3, 1985, Physicians Association of Clackamas County was officially notified that it had successfully completed its transitional phase and was deemed to be an operational qualified HMO. The service area comprises Clackamas County, Oregon.

Effective date: January 1, 1985.

2. HealthAmerica Corporation of Texas (Medical Group Model, see section 1310(b)(1) of the Act), 4499 Medical Drive, Suite 230, San Antonio, Texas 78229. On January 1, 1985, HealthAmerica Corporation of Texas (HACT), a wholly-owned, for-profit subsidiary of HealthAmerica Corporation, agreed to purchase the assets and assume the liabilities of the not-for-profit Good Health Plus, Inc. (GHP), a federally qualified HMO. Subsequently, HAC–T was approved for Federal qualification, and the qualification for GHP was voluntarily relinquished. The service area comprises Bexar County, Texas, including the city of San Antonio.

Date of qualification: January 1, 1985.

3. CIGNA Healthplan of Shreveport and Bossier (Medical Group Model, see section 1310(b)(1) of the Act), 3007 Knight Street, Suite 250, Shreveport, Louisiana 71105. The service area comprises the following zip codes in the following parishes in Louisiana:

Bossier Parish

71006 71010 71037 71051 71060 71061 71067 71110 71111 71112 71113 71141 71149 71171

Caddo Parish

71009 71033 71047 71101 71103 71104 71105 71106 71107 71108 71109 71115 71118 71119 71129 71130 71146 71161 71162 71163 71164 71165 71166 71167 71168 71169 71120

Desoto Parish

71078

Date of Qualification: January 14, 1985.

Subsequntly, the approved service area was expanded to include 7 additional zip codes in Caddo and Webster Parishes as follows:

Caddo Parish

71004 71029 71043 71082

Webster Parish

71023 71055 71073

Effective date: March 1, 1985.

4. United Medical Plan of Texas, Inc. (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 11271 Richmond Avenue, Building "H", Suite 101, Houston, Texas 77082. The service area comprises the following zip codes in Houston, Texas:

77001–77009 77011–77099 77201 77205–77209 77211 77215 77216 77218 77248 77272 77277 77327 77338 77365 77373 77375 77401 77411 77413 77429 77450 77459 77469 77471 77474 77477 77301 77302 77303 77304 77305 77380 77381 77385 77386 77387 77478 77481 77484 77485 77501 77502 77503 77506 77511 77520 77530 77532 77536 77539 77546 77547 77562 77565 77568 77571 77573 77578 77581 77586 77587 77590 77598

Date of qualification: January 14, 1985.

5. Florida Health Care Plan, Inc. (Staff Model, see section 1310(b)(1) of the Act), 350 Clyde Morris Boulevard, Daytona Beach, Florida 32014. On October 1, 1984, the for-profit entity, Florida Health Care Plan, Inc. (FHCP) agreed to purchase the assets and assume the liabilities of the not-for-profit Central Health Care Plan, Inc. (CHCP), a federally qualified HMO. FHCP began operation as an HMO on October 1, 1984. Subsequently, FHCP was approved for Federal Qualification, and the qualification for CHCP was voluntarily relinquished. The service area comprises Volusia County, Florida.

Date of qualification: January 16, 1985.

6. Health Options, Inc. (Medical Group Model, see section 1310(b)(1) of the Act), 4348 Southpoint Boulevard, Suite 101, Jacksonville, Florida 32216. The service area comprises Baker, Clay, Duval, Nassau, and St. John's Counties in Florida.

Date of qualification: January 28, 1985.

7. Share Health Plan of Nebraska, Inc. (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 600 Blackstone Centre, 302 South 36th Street, Omaha, Nebraska 68131. The service area comprises the following zip codes in the following counties in Nebraska and Iowa:

Nebraska

Washington County

68002 68008 68023 68029 68034 68068

Sarpy County

68005 68028 68046 68054 68056 68059 68113 68123 68128 68129 68133 68136 68138 68139 68140 68147

Douglas County

68007 68010 68022 68064 68069 68101 68102 68103 68104 68105 68106 68107 68108 68109 68110 68111 68112 68114 68115 68116 68117 68118 68119 68120 68121 68122 68124 68125 68126 68127 68130 68131 68132 68134 68135 68137 68142 68144 68145 68146 68152 68154 68155 68157 68164

Iowa

Pottawattamie County

51501 51502 51510 51521 51525 51526 51536 51542 51548 51549 51553 51559 51560 51575 51576 51577

Date of qualification: February 4, 1985.

8. Maxicare Ohio, Inc. (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 801 B West Eighth Street, Suite 111, Cincinnati, Ohio 45203. The service area comprises Dearborn County in Indiana; Boone, Campbell, Gallatin, Grant, Kenton, and Pendelton Counties in Kentucky; Butler, Clermont, Hamilton, and Warren Counties in Ohio; and following zip codes in the Greater Cincinnati Area:

41001 41005 41006 41007 41009 41011 41014 41015 41016 41017 41018 41030 41033 41035 41040 41042 41043 41046 41048 41051 41053 41059 41063 41071 41073 41074 41075 41076 41080 41085 41091 41092 41094 41095 45001 45002 45003 45004 45005 45011 45013 45014 45015 45030 45032 45033 45034 45036 45039 45040 45041 45042 45050 45051 45052 45053 45054 45055 45056 45061 45063 45064 45065 45066 45067 45068 45069 45102 45103 45106 45107 45108 45111 45112 45113 45119 45120 45122 45130 45140 45145 45147 45150 45152 45153 45156 45157 45158 45160 45162 45163 45174 45176 45201 45202 45203 45204 45205 45206 45207 45208 45209 45210 45211 45212 45213 45214 45215 45216 45217 45218 45219 45220 45221 45223 45224 45225 45226 45227 45228 45229 45230 45231 45232 45233 45236 45237 45238 45239 45240 45241 45242 45243 45244 45245 45246 45247 45275 47001 47018 47022 47025 47032 47040 47041 47060

Date of qualification: February 20, 1985.

9. Virginia Health Maintenance Organization/dba HMO Plus (Medical Group Model, see section 1310(b)(1) of the Act), 5511 Staples Mill Road, Richmond, Virginia 23228. The service area comprises the cities of Norfolk, Virginia Beach, Chesapeake, and Portsmouth in Virginia.

Date of qualification: February 22, 1985.

10. Health Plan of Nevada, Inc. (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 801 South Rancho Drive, Suite A4, Las Vegas, Nevada 89106. On December 31, 1984, Health Plan of Nevada, Ltd., a for-profit federally qualified HMO comprising two regional components, became Health Plan of Nevada, Inc., and a wholly-owned subsidiary corporation of Sierra Health Services, Inc. Subsequently, Health Plan of Nevada, Inc. was approved for Federal qualification, and the qualification of Health Plan of Nevada, Ltd. was voluntarily relinquished. The service area for the Las Vegas regional component comprises Clark County, Nevada. The service area for the Reno regional component comprises the following zip codes in Nevada:

Carson City

89701,89710

Reno

89501–89507 89509–89513 89515, 89520, 89523

Sparks

89431, 89439, 89442

Other

89403, 89408, 89410, 89411, 89413, 89450, 89423, 89428, 89429, 89449, 89439, 89440, 89442, 89448

Date of qualification: February 25, 1985.

11. Lovelace Health Plan, Inc. (Medical Group Model, see section

1310(b)(1) of the Act), 5400 Gibson Boulevard, S.E., Albuquerque, New Mexico 87108. On February 28, 1985, Lovelace Health Plan, Inc. (LHPI), a for-profit HMO, was notified that it had been approved for Federal qualification. LHPI had been created to assume the assets and liabilities and to continue the business operations of Lovelace Health Plan (LHP), a not-for-profit federally qualified HMO. At the time that LHPI became federally qualified, the qualification of LHP was voluntarily relinquished. The service area comprises Bernalillo County, New Mexico, and the following zip codes in portions of Sandoval, Torrance, and Valencia Counties, New Mexico:

87002 87004 87008 87031 87035 87041 87047 87048 87059 87101-87125 87174 87184 87185 87190 87191 87192 87194-87198

Date of qualification: March 1, 1985.

12. Share Health Plan of Illinois, Inc. (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 500 Park Boulevard, Suite 285, Itasca, Illinois 60143. The service area comprises Cook and Dupage Counties in Illinois, and the following zip codes in the following counties in Illinois:

DeKalb County

60152 60178

Grundy County

60416 60447 60450

Kane County

60102 60103 60109 60110 60118 60119 60120 60134 60136 60140 60144 60151 60152 60170 60174 60177 60178 60182 60183 60184 60185 60187 60190 60505 60506 60510 60538 60539, 60540, 60542, 60554, 60555

Kankakee County

60418 60901 60914 60915 60940 60950 60954

Kendall County

60505 60512 60538 60540 60543 60544 60554 60560

Lake County

60002 60010 60020 60030 60031 60041 60042 60044 60045 60048 60060 60064 60073 60075 60081 60083 60084 60085 60088 60096 60099 60535

McHenry County

60010 60013 60014 60021 60034 60042 60050 60071 60072 60080 60081 60097 60098 60102 60152 60180

Will County

60401 60408 60410 60416 60417 60418 60421 60423 60435 60436 60442 60447 60449 60466 60468 60544 60950

Date of qualification: March 1, 1985.

13. Health Dimensions, Inc. (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 1720 Louisiana Avenue, N.E., Suite 200, Albuquerque, New Mexico 87110. The service area comprises the following zip codes in the following counties in New Mexico:

Bernalillo County

87102, 87104-87118, 87121-87123—Albuquerque
87059—Tijeras
87008—Cedar Crest
87114—Alameda, Paradise Hills
87022—Isleta
87047—Sandia Park

Sandoval County

87004—Bernalillo
87124—Rio Rancho
87001—Algodones
87048—Corrales
87043—Placitas

Valencia County

87031—Las Lunas
87006—Bosque
87002—Belen
87060—Tome
87042—Peralta

Sante Fe County

87501—Sante Fe
87501—Nambe
87567—Santa Cruz
87010—Cerillos

Rio Arriba County

87532—Espanola

Los Alamos County

87544—Los Alamos

Date of qualification: March 13, 1985.

14. HealthAmerica Virginia, L.P. (Staff Model, see section 1310(b)(1) of the Act), 839 Poplar Hall, Norfolk, Virginia 23502. The service area comprises Gloucester, James City, and York Counties in Virginia, and the cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffiok, Virginia Beach, and Williamsburg in Virginia.

Date of qualification: March 15, 1985.

15. HealthAmerica Corporation of California (Individual Practice Associaiton Model, see section 1310(b)(2)(A) of the Act), 828 San Pablo Avenue, Albany, California 94706. On March 13, 1985, HealthAmerica Corporation of California (HAC-C), a wholly-owned for-profit subsidiary of HealthAmerica Corporation, was notified that it had been approved as a federally qualified HMO. HAC-C had assumed the assets and liabilities of the Northern California Institute for Medical Services, Inc. (NCIMS), a not-for-profit federally qualified HMO. At the moment HAC-C became qualified, the qualification for NCIMS was voluntarily relinquished. The service area comprises San Francisco County, California; the cities of Alameda, Albany, Berkeley, Canyon, Castro Valley, El Cerrito, El Sobrante, Emeryville, Kensington, Lafayette, Moraga, Oakland, Orinda, Piedmont, Pinole, Richmond, San Leandro, San Lorenzo and San Pablo in California; and the following zip codes in San Mateo County, California:

94002, 94005, 94014-94021, 94025, 94030, 94037, 94038, 94044, 94060, 94061-94066, 94074, 94080, 94401-94404.

Date of qualification: March 15, 1985.

16. Midwest Foundation Independent Physicians Association/dba ChoiceCare (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 5th and Vine Streets, Cincinnati, Ohio 45202. The service area comprises Brown, Butler, Clermont, Clinton, Hamilton, and Warren Counties in Ohio.

A regional component in Northern Kentucky was qualified at the same time. Its service area comprises Boone, Campbell, Grant, Kenton, and Pendleton Counties in Kentucky.

Date of qualification: March 26, 1985.

17. MetroHealth, Inc. (Staff Model, see section 1310(b)(1) of the Act), 931 East 86th Street, Suite 200, Indianapolis, Indiana 46240. On January 28, 1985, the for-profit entity, MetroHealth, Inc., purchased the assets and assumed the liabilities of the not-for-profit MetroHealth, Inc., a federally qualified HMO. Subsequently, the for-profit MetroHealth, Inc. was approved as a federally qualified HMO, and the qualification for the not-for-profit MetroHealth, Inc. was voluntarily relinquished. The service area comprises the following counties in Indiana:

Marion
Hendricks
Boone
Hamilton
Hancock
Johnson
Morgan (but excluding Ashland, Ray, and Baker Townships)
Shelby (but excluding Union, Liberty, Shelby, Washington and Noble Townships)
Madison (but excluding Duck Creek, Boone, Van Buron, Pipe Creek, Monroe, Jackson, Lafayette, and Richland Townships)

Date of qualification: March 27, 1985.

18. HMO Great Lakes (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), One Transam Plaza Drive, Suite 150, Oakbrook Terrace, Illinois 60148. The service area comprises Cook, Dupage, Kane, Lake, McHenry, and Will Counties in Illinois.

Date of qualification: April 2, 1985.

19. Maxicare Louisiana, Inc. (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act) Two Lakeway Center, 3850 North Causeway Boulevard, Metairie, Louisiana 70002. The service area comprises Orleans Parish, Louisiana,

and the following zip codes in Louisiana:

70001 70002 70003 70004 70005 70006 70030 70032 70036 70037 70039 70040 70042 70043 70046 70047 70049 70051 70053 70054 70057 70058 70059 70062 70063 70065 70067 70068 70070 70072 70073 70075 70079 70080 70084 70085 70087 70090 70092 70094 70121 70123 70129 70130 70131 70140 70141 70142 70143 70145 70146 70148 70149 70150 70151 70152 70153 70154 70156 70157 70158 70159 70160 70161 70162 70172 70174 70175 70176 70177 70178 70179 70181 70182 70183 70184 70185 70186 70189 70190 70195 70355 70371 70373 70374 70401 70402 70403 70404 70420 70431 70433 70434 70437 70445 70447 70448 70449 70452 70454 70455 70458 70459 70460 70461 70463 70464

Date of qualification: April 9, 1985.

20. Health Care Plus, Inc./Oklahoma (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 7701 East Kellogg, Suite 300, Wichita, Kansas 67207. The service area comprises Cleveland and Oklahoma Counties in Oklahoma.

Date of qualification: April 15, 1985.

21. Ocean State Master Health Plan, Inc. (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 339 Eddy Street, Providence, Rhode Island 02903. The service area comprises the entire state of Rhode Island and the following zip codes in Massachusetts:

Town	County	Zip Code
Attleboro	Bristol	02703
N. Attleboro	Bristol	02760-02763
Plainville	Norfolk	02762
Seekonk	Bristol	02771
Wrentham	Norfolk	02093
Foxboro	Norfolk	02720-02726
Bellingham	Norfolk	02019
Blackstone	Worcester	01504
Uxbridge	Worcester	01569

Date of qualification: April 23, 1985.

22. The Philadelphia Health Plan, Inc. (Medical Group Model, see section 1310(b)(1) of the Act), 1760 Market Street, Philadelphia, Pennsylvania 19103. On February 28, 1985, Hancock/Dikewood Services, Inc., a for-profit corporation, agreed to purchase the assets and assume the liabilities of The Philadelphia Health Plan, Inc., a not-for-profit federally qualified HMO. Hancock/Dikewood Services, Inc. was then renamed The Philadelphia Health Plan, Inc., and approved for Federal qualification as a for-profit HMO. The qualification of the former, not-for-profit corporation, The Philadelphia Health Plan, Inc., was voluntarily relinquished. The service area comprises Philadelphia County, Pennsylvania and the following cities and towns, by county, in Pennsylvania:

Bucks County

Bensalem, Bristol, Langhorne, Lower Makefield, Lower Southampton, Middletown, Newton, Northampton, Tullytown, Upper Southampton, Warminster, Warrington and Yardley

Chester County

Charlestown, East Goshen, East Pikeland, East Vincent, East Whiteland, Easttown, Malvern, Phoenixville, Schuylkill, Spring City, Tredyffrin, West Chester, West Goshen, West Pikeland, West Vincent, West Whiteland and Willistown

Delaware County

Adam, Clifton Heights, Collingdale, Colwyn, Darby, East Lansdowne, Eddystone, Folcroft, Glenolden, Haverford, Lansdowne, Nether Providence, Norwood, Prospect Park, Radnor, Ridley, Ridley Park, Sharon Hill, Springfield, Swarthmore, Tinicum, and Upper Darby

Montgomery County

Abington, Ambler, Bryn Athyn, Cheltenham, Collegville, Conshohocken, East Norriton, Harsham, Hatboro, Lansdale, Lower Gwynedd, Lower Merion, Lower Moreland, Lower Providence, Montgomery, Narbert, Norristown, North Wales, Perkiomen, Plymouth, Skippack, Springfield, Upper Dublin, Upper Gwynedd, Upper Merion, Upper Moreland, Upper Providence, West Conshohocken, West Norriton, Whitemarsh, and Whitpain and Worcester;

and the following cities and towns, by county, in New Jersey:

Burlington County

Cinnaminson, Delran, Maple Shade, Moorestown, Palmyra, Riverside and Riverton.

Camden County

Audobon, Brooklawn, Camden, Cherry Hill, Collingswood, Gloucester, Haddon Heights, Haddon Township, Haddonfield, Merchantville, Mt. Ephraim, Oaklyn, Pennsauken and West Collingswood.

Gloucester County

Greenwich, National Park, Paulsboro, West Deptford and Westville.

Date of qualification: April 26, 1985.

23. New Mexico Health Plan, Inc. (Director Contract Model, see section 1310(b)(2)(B) of the Act), 4501 Indian School Road, Suite B, Albuquerque, New Mexico 87110. The service area comprises the following zip codes in the following counties in New Mexico:

Bernalillo County

87008 87013 87022 87047-8 87059 87101-2 87104-6 87108-25 87148 87154 87174 87184-5 87190-2 87194-8

Sandoval County

87001 87004 87041 87043 87048 87052

Santa Fe County

87010 87015

Torrance County

87035 87056-7 87061

Valencia County

87002 87006 87023 87031 87042 87060 87062

Date of qualification: April 29, 1985.

24. Ochsner Health Plan (Medical Group Model, see section 1310(b)(1) of the Act), 1514 Jefferson Highway, New Orleans, Louisiana 70121. The service area comprises Orleans, Jefferson, St. Bernard, St. Charles, and St. John the Baptist Parishes in Louisian and the following zip codes in the following parishes in Louisiana:

La Fourche Parish

70301 70345 70354 70355 70357 70371 70373 70374 70394

Plaquemines Parish

70037 70040 70042 70046 70081 70085 70092

St. James Parish

70052 70071

St. Tammany Parish

70411 70420 70431 70433 70437 70445 70447 70448 70452 70457 70458 70459 70460 70463 70464

Tangipahoa Parish

70401 70421 70422 70442 70446 70451 70454 70455 70465 70466

Terrebonne Parish

70352 70356 70359 70360 70395

Date of qualification: April 29, 1985.

25. Whittaker Health Services of Pennsylvania (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 3 Gateway Center, 6 South, Pittsburgh, Pennsylvania 15222. The service area comprises Alleghany County, Pennsylvania.

Date of qualification: April 29, 1985.

26. HealthAmerica HMO Corporation (Staff Model, see section 1310(b)(1) of the Act), 5701 West Sunrise Boulevard, Plantation, Florida 33313. On November 15, 1984, HealthAmerica HMO Corporation, a for-profit corporation and a wholly-owned subsidiary of HealthAmerica Corporation of Delaware, assumed the assets and liabilities of HealthCare of Broward, Inc., a not-for-profit federally qualified HMO. Subsequently, HealthAmerica HMO Corporation was approved for Federal qualification and the qualification of HealthCare of Broward, Inc. was voluntarily relinquished. The service are comprises Broward County, Florida and the following zip codes in the following counties in Florida:

Dade County

33056 33169 33179 33180

Palm Beach County

33428 33431-33434 33444-33446

Date of qualification: April 30, 1985.

27. Av-Med of California, Inc. (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 3508 Dale Road, Suite C, Modesto, California 95356. The service area comprises Stanislaus County, California and the following zip codes in Merced and San Joaquin Counties in California:

Merced County

95303 95304 95312 95315 95322 95324 95334 95374

San Joaquin County

95328 95230 95231 95330 95336 95366 95376

Date of qualification: May 1, 1985. (Achieved preoperational qualification on April 23, 1985.)

28. HealthAmerica Louisiana Partners, L.P. (Medical Group Model, see section 1310(b)(1) of the Act), Suite 4150, One Shell Square, New Orleans, Louisiana 70139. The service area comprises Orleans Parish, Louisiana and the following zip codes in Louisiana:

70001 70002 70003 70004 70005 70009 70010 70011 70032 70033 70036 70037 70041 70043 70044 70047 70053 70054 70055 70058 70059 70062 70063 70064 70065 70067 70068 70072 70073 70075 70078 70079 70085 70092 70094 70112 70113 70114 70115 70116 70117 70118 70119 70121 70122 70123 70124 70125 70126 70127 70128 70129 70130 70131 70139 70140 70141 70148 70150 70151 70152 70153 70154 70156 70157 70158 70160 70161 70172 70174 70175 70176 70177 70178 70179 70181 70182 70183 70184 70185 70186 70189 70190 70195 70433 70434 70445 70457 70458 70457 70458 70459 70460 70461

Date of qualification: May 15, 1985.

29. Optima Health Plan (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 18 Koger Executive Center, Suite 118, Norfolk, Virginia 23502. The service area comprises the communities of Virginia Beach, Chesapeake, Portsmouth, and Norfolk in Virginia.

Date of qualification: May 30, 1985.

30. HealthAmerica Maryland, L.P. (Staff Model, see section 1310(b)(1) of the Act), Suite 1100, One South Calvert Street, Baltimore, Maryland 21202. The service area comprises the following zip codes in Maryland:

Anne Arundel County

20755 20794 21012 21032 21054 21056 21061 21076 21077 21090 21108 21113 21114 21122 21140 21144 21146 21401 21402 21403 21404 21405

Baltimore County

21013 21019 21020 21021 21022 21023 21027 21030 21031 21051 21052 21055 21057 21071 21082 21087 21092 21093 21111 21117 21120 21128 21131 21133 21136 21152 21153 21155 21156 21161 21162 21163 21204 21207 21208 21219 21220 21221 21222 21227 21228 21234 21236 21237

Baltimore City

21201 21202 21205 21206 21209 21210 21211 21212 21213 21214 21215 21216 21217 21218 21223 21224 21225 21226 21229 21230 21231 21239

Carroll County

21048 21074 21080 21102 21127 21735 21784

Harford County

21014 21018 21047 21050 21084 21085 21101 21154

Howard County

20701 20810 20863 21029 21036 21043 21044 21045 21046 21104 21150 21723 21794

Date of qualification: May 31, 1985.

31. Samaritan Health Plan Cooperative (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act, 2040 West Wisconsin Avenue, Suite 354, Milwaukee, Wisconsin 53233. On August 2, 1982, Samaritan Health Plan Cooperative was approved as a transitionally qualified HMO (see 42 CFR 110.603(b)). On June 27, 1985, Samaritan Health Plan Cooperative was officially notified that it had successfully completed its transitional phase and was deemed to be an operational qualified HMO. The service area comprises Milwaukee County, Wisconsin, and the following zip codes in the following counties in Wisconsin:

Ozaukee County

53012 53024 53074 53092

Waukesha County

53005 53007 53051 53072 53122 53151 53186

Washington County

53022

Effective date: June 27, 1985.

32 Independence Health Plan of Kentucky (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 870 Corporate Drive, Suite 402, Lexington, Kentucky 40503. The service area comprises the following counties in Kentucky:

Anderson	Lincoln
Bourbon	Madison
Boyle	Mercer
Clark	Montgomery
Estill	Nicholas
Fayette	Powell
Franklin	Scott
Garrard	Shelby
Harrison	Spencer
Henry	Woodford
Jessamine	

Date of qualification: June 27, 1985.

Transitionally Qualified Health Maintenance Organizations; 42 CFR 110.603(b)

33. Personal Care HMO, Inc. (Medical Group Model, see section 1310(b)(1) of the Act), 1402 West University Avenue, Urbana, Illinois 61801. The service area comprises Champaign, DeWitt, Douglas, Edgar, Ford, Piatt, and Vermilion Counties in Illinois, and the following zip codes in the following counties in Illinois:

Iroquois County

60918 60924 60926 60928 60930 60938 60939 60948 60953 60955 60966 60968 60970 60973 60974

Livingston County

60921 61739 61741 61775

McLean County

61720 61722 61724 61728 61731 61752 61770

Date of qualification: March 4, 1985.

34. Bay State Health Care, Inc. (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 101 Main Street, Cambridge, Massachusetts 02142. The service area comprises Essex, Norfolk, and Suffolk Counties in Massachusetts; the towns of Harvard and Southboro in Worcester County, Massachusetts; Bristol County, Massachusetts, except for the municipalities of Acushnet, Dartmouth, Fall River, Fairhaven, New Bedford, Somerset, Swansee and Westport; Middlesex County, Massachusetts, except for the towns of Ashby and Townsend; and Plymouth County, Massachusetts, except for the municipalities of Carver, Kingston, Lakeville, Marion, Mattapoisett, Middleboro, Plymouth, Plympton, Rochester and Wareham.

Date of qualification: April 1, 1985.

35. Whittaker Health Services/Health First (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 909 Glenrock Road, Suite D, Norfolk, Virginia 23502. The service area comprises the following zip codes in Isle of Wight County, Virginia: 23314, 23315, 23397, 23430, 23487, and 23898; and the following zip codes in the following independent cities in Virginia:

Portsmouth

23701 23702 23703 23704 23705 23707 23708 23709

Chesapeake

23320 23321 23322 23323 23324 23325

Norfolk

23501 23502 23503 23504 23505 23507 23508 23509 23510 23511 23513 23517 23518 23520 23521 23523

Virginia Beach

23451 23452 23453 23454 23455 23456 23457 23459 23460 23461 23462 23464

Suffolk

23432 23433 23434 23435 23437 23438

Date of qualification: May 31, 1985.

Preoperational Qualified Health Maintenance Organizations; 42 CFR 110.603(c)

36. BESTCARE, Inc. (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 9400 S.W. Barnes Road, Suite 307, Portland, Oregon 97225. The service area comprises Clark County in Washington; Clackamus, Mutnomah, and Washington Counties in Oregon; and the following zip codes in Yamhill County, Oregon:

97132 97201–97223 97225 97227 97229 97230 97231 97232 97236 97238 97242 97266 97268

Date of qualification: February 28, 1985.

Qualified Regional Components: 42 CFR 110.603(e)

37. HealthAmerica Corporation of Pennsylvania/Camp Hill (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of HealthAmerica Corporation of Pennsylvania, Pittsburgh, Pennsylvania 15222. The service area comprises Adams, Cumberland, Dauphin, Lebanon, Perry, and York Counties in Pennsylvania.

Date of qualification: January 2, 1985.

38. Sanus Texas Health Plan, Inc./Fort Worth (Direct Contract Model, see section 1310(b)(2)(B) of the Act), an operational qualified regional component of Sanus Texas Health Plan, Inc., Irving, Texas 75063. The service area comprises Johnson, Parker, and Tarrant Counties in Texas.

Date of qualification: February 9, 1985.

39. West Michigan Health Care Network/West Shore (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of West Michigan Health Care Network, Grand Rapids, Michigan 49506. The service area comprises the following townships, by county, in Michigan:

Muskegon County: All townships except Casnovia and Holton

Newaygo County: The Township of Troy

Oceana County: All townships except Greenwood

Ottawa County: The Townships of Crockery, Grand Haven, Polkton, Robinson, and Spring Lake

Date of qualification: February 21, 1985.

40. Island Care/Oahu (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of Island Care, Lihue, Hawaii 96766. The service area comprises Honolulu County, Hawaii.

Date of qualification: March 4, 1985.

41. HealthPlus of Michigan/North (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of HealthPlus of Michigan, Flint, Michigan 48507. The service area comprises Bay, Gratiot, Isabella, Midland, Saginaw, and Tuscola Counties in Michigan.

Date of qualification: March 11, 1985.

42. HealthPlus of Michigan/South (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of HealthPlus of Michigan, Flint, Michigan 48507. The service area comprises Oakland, Macomb, and Wayne Counties in Michigan.

Date of qualification: March 11, 1985.

43. HealthPlus of Michigan/West (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of HealthPlus of Michigan, Flint, Michigan 48507. The service area comprises Livingston and Washtenaw Counties in Michigan.

Date of qualification: March 11, 1985.

44. Bay Pacific Health Plan/Marin (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of Bay Pacific Health Plan, San Bruno, California 94066. The service area comprises Marin County, California.

Date of qualification: March 14, 1985.

45. Av-Med Health Plan, Inc./Palm Beach (individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of Av-Med Health Plan, Inc., Miami, Florida, 33156. The service area comprises Palm Beach County, Florida.

Date of qualification: March 18, 1985.

46. International Medical Centers, Inc./Broward (Medical Group Model, see section 1310(b)(1) of the Act), an operational qualified regional component of International Medical Centers, Inc., Miami, Florida 33169. The service area comprises Broward County, Florida.

Date of qualification: March 27, 1985.

47. International Medical Centers, Inc./Palm Beach (Medical Group Model, see section 1310(b)(1) of the Act), an operational qualified regional component of International Medical Centers, Inc., Miami, Florida 33169. The service area comprises Palm Beach County, Florida.

Date of qualification: March 27, 1985.

48. International Medical Centers, Inc./Tampa Bay (Medical Group Model, see section 1310(b)(1) of the Act), an operational qualified regional component of International Medical Centers, Inc., Miami, Florida 33169. The service area comprises Hillsborough, Pasco, and Pinellas Counties in Florida.

Date of qualification: March 27, 1985.

49. MultiGroup Health Plan/Nashua (Medical Group Model, see section 1310(b)(1) of the Act), an operational qualified regional component of MultiGroup Health Plan, Wellesley, Massachusetts 02181. The service area comprises the following cities and towns in New Hampshire:

Amherst	Lyndenborough
Atkinson	Manchester
Bedford	Mason
Brookline	Merrimack
Derry	Milford
East Kingdom	Mount Vernon
Exeter	Nashua
Greenville	Newton
Hampstead	Plaistow
Hampton	Pelham
Hollis	Salem
Hudson	Seabrook
Kensington	South Hampton
Kingston	Wilton
Litchfield	Windham
Londonderry	

Date of qualification: March 25, 1985.

50. MultiGroup Health Plan/Williamstown (Medical Group Model, see section 1310(b)(1) of the Act), an operational qualified regional component of MultiGroup Health Plan, Wellesley, Massachusetts 02181. The service area comprises the following cities and towns in Massachusetts, Vermont, and New York:

Massachusetts

Adams	Monroe
Cheshire	New Ashford
Claremont	North Adams
Clarksburg	Pittsfield
Dalton	Rowe
Florida	Savoy
Hancock	Williamstown
Hawley	Windsor
Lanesborough	

Vermont

Bennington	Readsboro
Pownal	

New York

Stanford	N. Petersburg
Petersburg	

Date of qualification: March 27, 1985.

51. HMO Kansas, Inc./Central Kansas (Direct Contract Model, see section 1310(b)(2)(B) of the Act), an operational qualified regional component of HMO Kansas, Inc., Topeka, Kansas 66601. The service area comprises Barton, Pawnee, Reno, and Rice Counties in Kansas.

Date of qualification: April 29, 1985.

52. HMO Kansas, Inc./Kaw Valley (Direct Contract Model, see section 1310(b)(2)(B) of the Act), an operational qualified regional component of HMO Kansas, Inc., Topeka, Kansas 66601. The service area comprises Douglas County, Kansas, and zip codes 66054, 66066,

66066, 66096, and 66097 in Jefferson County, Kansas.

Date of qualification: April 29, 1985.

53. HMO Kansas, Inc./Northcentral Kansas (Direct Contract Model, see section 1310(b)(2)(B) of the Act), an operational qualified regional component of HMO Kansas, Inc., Topeka, Kansas 66601. The service area comprises Dickinson, Ellsworth, Geary, Ottawa, Pottawatomie, Riley, and Saline Counties in Kansas, and zip codes 67445 and 67466 in Cloud County, Kansas.

Date of qualification: April 29, 1985.

54. HMO Kansas, Inc./Southcentral Kansas (Direct Contract Model, see section 1310(b)(2)(B) of the Act), an operational qualified regional component of HMO Kansas, Inc., Topeka, Kansas 66601. The service area comprises Cowley County, Kansas.

Date of qualification: April 29, 1985.

55. HMO Kansas, Inc./Tricounty (Direct Contract Model, see section 1310(b)(2)(B) of the Act), an operational qualified regional component of HMO Kansas, Inc., Topeka, Kansas 66601. The service area comprises Harvey, Marion, and McPherson Counties in Kansas.

Date of qualification: April 29, 1985.

56. TAKECARE Prepaid Health Service of Oklahoma, Inc./Oklahoma City (Direct Contract Model, see section 1310(b)(2)(B) of the Act), an operational qualified regional component of TAKECARE Prepaid Health Service of Oklahoma, Inc., Tulsa, Oklahoma 74135. The service area comprises the following zip codes in the following counties in Oklahoma:

Canadian County

73036 73064 73078 73090 73099

Cleveland County

73013 73026 73027 73068 73069 73070 73071

Grady County

73059 73089

Lincoln County

74855 74881

McClain County

73010 73065

Oklahoma County

73007 73008 73020 73034 73045 73049 73054 73096 73083 73084 73097 73101-73160 73185 73189 73173 73179

Pottawatomie County

74801, 74638, 74857, 74873

Date of qualification: May 3, 1985.

57. HMO of Florida, Inc./Tampa (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of HMO of Florida, Inc., Jacksonville, Florida 32216. The service area comprises Hillsborough, Pasco, and Pinellas Counties in Florida.

Date of qualification: June 1, 1985. [Achieved preoperational qualification on May 20, 1985.]

58. Columbia Medical Plan, Inc./Annapolis, Maryland (Medical Group Model, see section 1310(b)(1) of the Act), an operational qualified regional component of Columbia Medical Plan, Inc., Columbia, Maryland 21044. The service areas comprises the following zip codes in Maryland.

20617 20711 20733 20751 20758 20764 20765 20769 20776 20778 20779 20780 20801 21012 21032 21035 21037 21056 21090 21106 21114 21140 21146 21225 21240 21401 21402 21403 21404 21405 21412 21619 21638 21658 21666

Date of qualification: June 4, 1985.

59. Prudential Health Care Plan, Inc./Charlotte, North Carolina (Medical Group Model, see section 1310(b)(1) of the Act), an operational qualified regional component of Prudential Health Care Plan, Inc., Roseland, New Jersey 07068. The service area comprises Cabbarus, Gaston, Lincoln, Mecklenburg, Rowan, and Union Counties in North Carolina.

Date of qualification: June 4, 1985.

60. Capital Health Care, Inc./Corvallis, Oregon (Direct Contract Model, see section 1310(b)(2)(B) of the Act), an operational qualified regional component of Capital Health Care, Inc., Salem, Oregon 97309. The service area comprises the following zip codes in the following counties in Oregon:

Benton County

97324 97326 97330 97331 97333 97339 97370 97456

Linn County

97321 97327 97335 97348 97352 97355 97358 97360 97374 97377 97389 97446

Lincoln County

97357 97364 97366 97389 97376 97390 97391 97394 97398

Date of qualification: June 10, 1985.

61. Bay Pacific Health Plan/East Bay (Individual Practice Association Model, see Action 1310(b)(2)(A) of the Act), an operational qualified regional component of Bay Pacific Health Plan, San Bruno, California 94066. The service area comprises Alameda and Contra Costa Counties in California.

Date of qualification: June 11, 1985.

62. Foundation Health Plan/Binghamton, New York (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of Health Services Medical Corporation of Central New York, Baldwinsville, New York 13027. The service area comprises the following zip codes in New York and Pennsylvania:

New York

13730	Afton	13802	Maine
13732	Apalachin	13803	Marathon
13733	Bainbridge	13804	Masonville
13734	Barton	13811	Newark Valley
13736	Berkshire	13812	Nichols
13737	Bible School Park	13813	Nineveh
13741	Brisben	13827	Owego
13743	Candor	13833	Port Crane
13744	Castle Creek	13835	Richford
13745	Chenango Bridge	13836	Sanitaria Springs
13746	Chenango Forks	13838	Sidney
13748	Conklin	13839	Sidney Center
13749	Corbettsville	13840	Smithboro
13754	Deposit	13845	Tioga Center
13755	Downsville	13848	Tunnel
13760	Endicott	13850	Vestal
13777	Glen Aubrey	13862	Whitney Point
13778	Greene	13863	Willett
13783	Hancock	13864	Willseyville
13784	Harford	13865	Windsor
13785	Harford Mills	13901	Binghamton
13787	Harpursville	13902	Binghamton
13790	Johnson City	13903	Binghamton
13794	Killawog	13904	Binghamton
13795	Kirkwood	13905	Binghamton
13797	Lisle		

Pennsylvania

18801	Athens	18830	Little Meadow
18812	Brackney	18834	New Milford
18813	Brooklyn	18840	Sayre
18821	Great Bend	18843	South Montrose
18822	Hallstead	18847	Susquehanna
18823	Harford	18851	Warren Center
18827	Lanesboro		

Date of qualification: June 14, 1985.

63. Kaiser Foundation Health Plan of North Carolina/Charlotte (Medical Group Model, see section 1310(b)(1) of the Act), an operational qualified regional component of Kaiser Foundation Health Plan of North Carolina, Raleigh, North Carolina 27625. The service area comprises the following zip codes in the following counties in North Carolina:

Cabarrus County

28025	Concord	28107	Midland
28075	Harrisburg	28124	Mt. Pleasant
28081	Kannapolis		

Catawba County

28673	Sherrils Ford	28682	Terrell

Gaston County

28052-thru 28054	Gastonia	28101	McAdenville
28016	Bessemer City	28034	Dallas
28032	Cramerton	28164	Stanely
28012	Belmont	28077	High Schools
28098	Lowell	28066	Alexis
		28120	Mt. Holly

Iredell County

28115	Morresville	28123	Mt. Mourne

Lincoln County

28033	Crouse	28080	Iron Station
28037	Denver	28092	Lincolnton

Mecklenburg County

28201-thru 28299	Charlotte	28105	Matthews
		28126	Newell
28031	Cornelius	28130	Paw Creek
28036	Davidson	28134	Pineville
28078	Huntersville		

Rowan County

28023	China Grove	28125	Mt. Ulla
28088	Landis		

Stanley County

28097	Locust	28129	Oakboro
28163	Stanfiled		

Union County

28110	Monroe	28173	Waxhaw
28079	Indian Trail	28174	Wingate
28108	Mineral Springs		

Date of qualification: June 17, 1985.

64. The HMO of New Jersey, Inc./North (Direct Contract Model, see section 1310(b)(2)(B) of the Act), an operational qualified regional component of The HMO of New Jersey, Inc., Princeton, New Jersey 08540. The service area comprises Bergen, Essex, Hudson, Morris, Passaic, Sussex, and Warren Counties in New Jersey.

Date of qualification: June 25, 1985.

65. HealthAmerica Corporation of Kentucky/Lexington (Staff Model, see section 1310(b)(1) of the Act), an operational qualified regional component of HealthAmerica Corporation of Kentucky, Louisville, Kentucky 40232. On October 18, 1982, HealthCare of Louisville, Inc./Lexington, now HealthAmerica Corporation of Kentucky/Lexington, was approved as a transitionally qualified HMO (see 42 CFR 110.603(b)). On June 27, 1985, HealthAmerica Corporation of Kentucky/Lexington was officially notified that it had completed its transitional phase and was deemed to be an operational qualified HMO. The service area comprises Fayette, WoodFord, Scott Bourbon, Clark, Madison, Jessamine, and Franklin Counties in Kentucky.

Effective date: June 27, 1985.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 4:30 p.m. on Tuesdays and Thursdays except for Federal holidays, in the Office of Health Maintenance Organizations, Bureau of Health Maintenance Organizations and Resources Development, Department of Health and Human Services, Rm. 9–11 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Questions about the qualification review process or requests for information about qualified HMOs should be sent to the same office.

Dated: August 27, 1985.

John H. Kelso,

Acting Administrator.

[FR Doc. 85–20940 Filed 9–3–85; 8:45 am]

BILLING CODE 4160–16–M

Social Security Administration

Dominican Republic; Finding Regarding Foreign Social Insurance or Pension System; Correction

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Finding Regarding Foreign Social Insurance or Pension System—Dominican Republic; Correction.

SUMMARY: This document corrects the effective date we determined the Dominican Republic has in effect a social insurance system that meets the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

FOR FURTHER INFORMATION CONTACT: Roy G. Hatch, Room 1104, West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–6122.

The following correction is made to FR Doc. 85–16490 appearing on page 28269 in the issue of July 11, 1985: On page 28269 in column three, in the paragraph beginning with the word "Accordingly", the date "1983" is corrected to read "1984".

Dated: August 27, 1985.

Elizabeth K. Singleton,

Director, International Policy Staff.

[FR Doc. 85–21027 Filed 9–3–85; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Alaska Land Use Council; Meeting

As requried by the Alaska National Interest Lands Conservation Act (ANILCA), Pub. L. 96–487, dated December 2, 1980, Section 1201, Paragraph (h), the Alaska Land Use Council will meet at 9:00 a.m., Tuesday, October 8, 1985, in the conference room of the Alaska Department of Transportation and Public Facilities located at 4111 Aviation Avenue (Lake Hood), Anchorage, Alaska.

The tentative agenda will include Council consideration of:

—Alaska Peninsula National Wildlife Refuge Comprehensive Conservation Plan,
—Denali National Park and Preserve General Management Plan,
—Wrangell/St. Elias National Park and Preserve General Management Plan,
—Gates of the Artic National Park and Preserve General Management Plan,
—Cape Krusenstern National Monument General Management Plan,
—Katmai National Park and Preserve General Management Plan,
—Aniakchak National Monument and Preserve General Management Plan,
—Noatak National Preserve General Management Plan,
—Bering Land Bridge National Preserve General Management Plan,
—Kobuk Valley National Park General Management Plan,
—Status of Management on the Tongass National Forest, ANILCA 706(b) Report—USDA Forest Service,
—Council Work Program 1985–86,
—Long Range Goals and Objectives 1985–90,
—Trespass Abatement Program Project Group Report,
—Stikine River Access Study Report, and
—Competitive, Special, or Recreational Events Project Group Report.

FOR FURTHER INFORMATION CONTACT:

Alaska Land Use Council, Federal CoChairman, P.O. Box 100120, Anchorage, AK 99510, (907) 272–3422. (FTS) 271–5485

State of Alaska, State CoChairman Designee, 2600 Denali Street, Suite 700, Anchorage, AK 99503 (907) 274–1581

The public is invited to attend.

Willian P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

August 28, 1985.

[FR Doc. 85–21086 Filed 9–3–85; 8:45 am]

BILLING CODE 4310–10–M

Advisory Council on Historic Preservation; SES Performance Review Board

AGENCY: Department of the Interior.

ACTION: Notice of SES Performance Review Board Appointments.

SUMMARY: This notice provides the names of those individual who have been appointed by the Chairman of the Advisory Council on Historic Preservation to serve as members of the SES Performance Review Board. Pursuant to the Memorandum of Understanding between the Advisory Council and the Department of the Interior, the SES Performance Appraisal Plan for the Department has been adopted for use by the Council. The Performance Review Board will review the appraisal, award, and bonus

recommendations for the SES members of the Council staff, and recommend final action to the Chairman. This notice is processed on behalf of the Advisory Council, as required by 5 U.S.C. 4314(c)(4).

DATE: These appointments are effective on September 1, 1985.

FOR FURTHER INFORMATION CONTACT: Mary D. Ellis, Personnel Officer, Office of the Secretary (PMOP–P), Department of the Interior, Washington, DC 20240, Telephone number: 343–6702.

The names of the members of the SES Performance Review Board are:

Mr. Bruce Blanchard (Career), Director, Office of Environmental Project Review, Department of the Interior
Mr. Richard H. Brown (Career), Director, Office of Environmental Quality, Department of Housing and Urban Development
Mr. Elliott Carroll, FAIA (Career) Executive Assistant to the Architect of the Capitol

Dated: August 27, 1985.

Joseph E. Doddridge Jr.,

Acting Principal Deputy Assistant Secretary, Policy, Budget and Administration.

[FR Doc. 85–21012 Filed 9–3–85; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Land Management

[CA 16639–A]

California; Exchange of Public and Private Lands in Riverside County

August 26, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Issuance of Land Exchange Conveyance Document and order opening lands acquired in this exchange.

SUMMARY: The purpose of this exchange was to acquire a portion of the non-Federal lands within the proposed 13,030-acre preserve for the Coachella Valley fringe-toed lizard. The lizard is Federally listed as threatened and State listed as endangered. The Bureau of Land Management's goal is to acquire 6,700 acres of the preserve. Other State or Federal agencies will acquire the remaining portion of the preserve. The public interest was well served through completion of this exchange. The land acquired in this exchange will be opened to the operation of the public land laws and to the full operation of the United States mining and mineral leasing laws.

EFFECTIVE DATE: July 31, 1985.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office (916) 978–4815.

The United States issued an exchange conveyance document to The Nature Conservancy on July 31, 1985, for the following described public land under the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716:

San Bernardino Meridian, California

T. 8 S., R. 8 E.,
Sec. 22, W½NW¼NW¼, SW¼NW¼, W½NE¼SW¼, N½NW¼SW¼, SE¼NW¼SW¼, E½SW¼SW¼, W½SE¼SW¼, and SE¼SE¼SW¼;
Sec. 26, SW¼SW¼NE¼, S½SE¼NW¼, NW¼SW¼NW¼, S½SW¼NW¼, N½SW¼, N½SE¼, and N½SE¼SE¼.

Comprising 400.00 acres of public land.

In exchange for these lands, the United States acquired the following described land from The Nature Conservancy:

San Bernardino Meridian, California

T. 4 S., R. 6 E.,
Sec. 2, Lots 1 and 6, N½NE¼SE¼, and SE¼NE¼SE¼;

Comprising 109.80 acres of non-Federal land.

The values of the public land and the non-Federal land in the exchange were equalized by a cash payment to the United States in the amount of $600.

At 10 a.m. on October 7, 1985, the non-Federal lands described above shall be open to operation of the public land laws generally, subject to valid existing rights and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 7, 1985, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 10 a.m. on October 7, 1985, the non-Federal lands described above shall be open to applications under the United States mining laws and mineral leasing laws.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Room E–2841, 2800 Cottage Way, Sacramento, California 95825.

Sharon N. Janis,

Chief, Branch of Lands & Minerals Operations.

[FR Doc. 85–21008 Filed 9–3–85; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Bureau of Land Management/Forest Service Interchange Program; Intent To Prepare a Legislative Environmental Impact Statement

The Department of the Interior, Bureau of Land Management (BLM), and the Department of Agriculture, Forest Service (FS), will prepare a legislative environmental impact statement on a legislative proposal to transfer lands and minerals management responsibilities on certain areas between the two agencies. The goal of this interchange proposal are to enhance public service, improve efficiency of management of natural resources, and save agency costs.

A range of alternatives will be considered for the proposed action. Alternatives will range from those which would implement transfer of lands and minerals management authority on a National basis to a no action alternative, which is the continuation of current management under existing authorities. A discussion of alternatives considered by the two agencies but eliminated from detailed study will also be included in the document.

This legislative environmental impact statement will be prepared in accordance with the Council on Environmental Quality's regulation on proposals for legislation (40 CFR 1506.8). Consistent with this regulation, the legislative statement will be prepared in the same manner as a draft statement with no final statement and no formal period for public comments, as required for other environmental impact statements. Scoping is not required for legislative statements. However, the FS and BLM have had intensive public involvement on the interchange, including 30 formal public hearings. Comments gathered as a result of these efforts along with those received earlier in 85 public meetings and in letters from interested organizations and individuals will be considered in the environmental analysis and documentation.

The responsible officials are Donald P. Hodel, Secretary, Department of the Interior, and John R. Block, Secretary, Department of Agriculture. The legislative environmental impact statement should be available for filing with the Environmental Protection Agency and submitted to Congress by November 1985. Questions about the proposed action and environmental impact statement should be directed to

David Williams, Chief, Office of Planning and Environmental Coordination (202), Bureau of Land Management, 18th and C Streets, Room 906, Washington, DC 20240 (telephone 202–653–8824), or David E. Ketcham, Director of Environmental Coordination, Forest Service, P.O. Box 2417, Washington, DC 20013 (telephone 202–447–4708).

Dated: August 26, 1985.

James M. Parker,

Bureau of Land Management.

Dated: August 22, 1985.

F. Dale Robertson,

Associate Chief, Forest Service.

[FR Doc. 85–21079 Filed 9–3–85; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Burley District Grazing Advisory Board; Meeting and Agenda

Notice is given that the Burley District Grazing Advisory Board will meet on October 9, 1985.

The meeting will convene at 9:30 a.m. in the Conference Room of the Bureau of Land Management Office at 200 South Oakley Highway, Burley, Idaho.

Agenda items for the meeting will include: (1) Range improvement projects for fiscal year 1986; (2) Items of information: (a) Proposed "Public Rangelands Policy Amendments Act of 1985", (b) Proposed boundary and office location changes, (c) Grazing Advisory Board status, (d) 1985 District fire activities.

The meeting is open to the public. Interested persons may make oral statement to the Board beginning at 11:00 a.m. or they may file written statements for the Board's consideration. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

Detailed minutes of the Board meeting will be maintained in the District Office and will be available for public inspection during regular business hours (7:45 a.m. to 4:30 p.m., Monday through Friday) within 30 days following the meeting.

DATE: October 9, 1985.

ADDRESS: Bureau of Land Management, Burley District Office, Route 3, Box 1, Burley, Idaho 83318.

FOR FURTHER INFORMATION CONTACT: John Davis, Burley District Manager, (208) 678–5514.

John S. Davis,

District Manager.

[FR Doc. 85–21003 Filed 9–3–85; 8:45 am]

BILLING CODE 4310–GG–M

Guidelines for Implementation of Section 2(a)(2)(A) of the Act of February 25, 1920, as Amended (30 U.S.C. 201(a)(2)(A))

Correction

In FR Doc. 85–20609 beginning on page 35125 in the issue of Thursday, August 29, 1985 the heading should read as set forth above.

BILLING CODE 1505–01–M

Guidelines for Implementation of Section 2(d) of the Act of February 25, 1920, as Amended (30 U.S.C. 202a)

Correction

In FR Doc. 85–20610 beginning on page 35145, in the issue of Thursday, August 29, 1985 the heading should read as set forth above.

BILLING CODE 1505–01–M

[F–14823–A]

Alaska Native Claims Selection; Akiachuk, Ltd.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Akiachuk, Limited for approximately 3.18 acres. The lands involved are in the vicinity of Akiachak, Alaska, located within U.S. Survey NO. 4479, Block 7, lot 1.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the THE TUNDRA DRUMS. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until October 4, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal.

Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85–21031 Filed 9–3–85; 8:45 am]

BILLING CODE 4310–JA–M

[W–96702]

Wyoming; Proposed Withdrawal and Opportunity for Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management has received an application from the Department of Energy to withdraw approximately 350 acres of public land near Riverton, Wyoming. The application involves a disposal site for radioactive wastes. This notice will segregate the land for a period of 2 years. During this period, the Department of Energy will prepare the necessary National Environmental Policy Act compliance documentation and justification for Secretarial consideration of the withdrawal application. The withdrawal is requested for a period of 5 years pending permanent Congerssional action.

DATE: Comments or requests for a public meeting should be received by December 3, 1985.

ADDRESS: Comments and meeting requests should be sent to: Wyoming State Director, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office, (307) 772–2089.

The Department of Energy proposes that the site described below be withdrawn for their exclusive use for construction of a proposed disposal site for residual radioactive wastes pursuant to the Uranium Mill Tailings Radiation Control Act of 1978; 92 Stat. 3021, 42 U.S.C. 7901:

Sixth Principal Meridian

T. 35 N., R. 94 W.,
Sec. 31, S½NE¼, S½N½NE¼, E½SE¼NW¼, SE¼NE¼NW¼, E½SW¼, SE¼.

The area described above contains approximately 350 acres in Fremont County, Wyoming.

Effective on the date of publication, these lands are segregated from all forms of appropriation under the public land laws, including the mining laws. The lands remain open to mineral leasing subject to concurrence by the Department of Energy, the Nuclear Regulatory Commission, and the Department of the Interior. The lands will remain open to surface uses which are compatible with the project until the withdrawal is final and until construction is started. The segregative effect of this pending application will terminate years from the date of this publication unless final withdrawal action is taken or the application is terminated prior to that date. Notice of any action will be published in the **Federal Register.**

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal may present their views in writing to the State Director, Wyoming State Office.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on this proposed action must submit a written request for a hearing to the Wyoming State Director within 90 days from the date of this publication.

If it is determined that a public hearing should be held, notice of the time and place of the hearing will be published in the **Federal Register** at least 30 days prior to the hearing. The hearing will be scheduled and conducted in accordance with Bureau of Land Management Manual, section 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. The authorized officer will also undertake negotiations with the applicant agency to assure that the area sought is the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the land for purposes other than the applicant's, and to reach an agreement on the concurrent management of the land and its resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on this application will be published in the **Federal Register.**

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

Dated: August 26, 1985.

Hillary A. Oden,

State Director.

[FR Doc. 85-21007 Filed 9-3-85; 8:45 am]

BILLING CODE 4310-22-M

National Park Service

Intention To Negotiate Concession Permit; Carteret Boat Tours, Inc.

Pursuant to the provisions of Section 5 of the Act of October 9, 1965, (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Carteret Boat Tours, Inc., authorizing it to continue to provide a passenger ferry and jitney transportation service within Cape Lookout National Seashore for a period of four years from January 1, 1985, through December 31, 1988.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on December 31, 1984, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

Dated: July 3, 1985.

Robert L. Deskins,

Acting Regional Director, Southeast Region.

[FR Doc. 85-21065 Filed 9-3-85; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30716]

Waterloo Railroad Company and Illinois Central Gulf Railroad Co.; Exchange of Properties; Exemption

Decided: August 26, 1985.

Waterloo Railroad Company (WRC) and Illinois Central Gulf Railroad Company (ICG) jointly filed a notice of exemption pursuant to 49 CFR 1180.2(d) concerning an agreement under which WRC, a wholly-owned subsidiary of ICG, will exchange all of its railroad properties in Iowa for a line of railroad presently owned by ICG in Mississippi. WRC will reincorporate so as to qualify to do business in Mississippi.

These transactions are within a corporate family and come within the class of transactions described in 49 CFR 1180.2(d)(3) and 49 CFR 1180.2(d)(6) which has been exempted from Commission regulation. The transactions will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to use of this exemption, any employees affected by the transaction shall be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 1979.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-21023 Filed 9-3-85; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30718]

Railroads; Missouri Pacific Railroad Co.; Trackage Rights; Southern Pacific Transportation Co.; Exemption

The City Public Service Board of San Antonio, TX (CPSB), will agree to assign to the Missouri Pacific Railroad Company (MP), CPSB's right ot operate over lines of the Southern Pacific Transportation Company (SP), from M.P. 238.6 to M.P. 237.0 on SP's Kerrville Branch, between M.P. 212.7 and M.P. 207.4 on SP's Del Rio Subdivision, and

from M.P. 5.8 to M.P. 12.6 on SP's San Antonio-Beeville Line to serve the J.T. Deely Power Plant, a distance of approximately 13.7 miles at and near San Antonio.

The trackage rights became effective on Augsut 21, 1985.

This Notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated: August 28, 1985.

By the Commission.

James H. Bayne,

Secretary.

[FR Doc. 85-21084 Filed 9-3-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 18-85]

Privacy Act of 1974; Elimination of a System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Office of Legal Counsel, Department of Justice is eliminating a system of records entitled "Citizen Mail Index, JUSTICE/OLC-002." The Office is eliminating the system because it has found that it does not process enough citizen correspondence to justify maintaining a citizen mail index. Accordingly, the system, as published in the **Federal Register** on September 30, 1977 (42 FR 53361), is removed from the Department's compilation of Privacy Act systems.

Dated: August 19, 1985.

Lawrence W. Wallace,

Assistant Attorney General for Administration.

[FR Doc. 85-21018 Filed 9-3-85; 8:45 am]

BILLING CODE 4410-01-M

[AAG/A Order No. 17-85]

Privacy Act of 1974; Modified System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Office of Legal Counsel, Department of Justice, is amending its system of records entitled "Office of Legal Counsel Central File, JUSTICE/OLC-003" to reflect minor changes.

For administrative reasons, the system number identifier has been changed from "JUSTICE/OLC-003" to "JUSTICE/OLC-002." Other editorial changes have been italicized for public convienience. In addition, language that is no longer applicable has been removed.

The notice, which is reprinted below in its revised form, was last published in the **Federal Register** on November 17, 1980 (45 FR 75940).

Dated: August 19, 1985.

Lawrence W. Wallace,

Assistant Attorney General for Administration.

Justice/OLC-002

SYSTEM NAME:

Office of Legal Counsel Central File.

SYSTEM LOCATION:

U.S. Department of Justice, Office of Legal Counsel, 10th and Consititution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will permit retrieval of information concerning persons mentioned in the legal opinions, memoranda, correspondence, testimony and other writings of the Office of Legal Counsel. These will include:

(A) Addresses, authors and employees of the Office of Legal Counsel whose name appears in memoranda, opinions, correspondence, testimony and other writings of the Office;

(B) Individuals who are the subject of opinions, particularly on such subjects as conflict of interest, emoployee standards of conduct, and immigration;

(C) Attendees at meetings described in a memorandum included in the file;

(D) Litigants and judges identified in connection with reported court decisions and pending cases described in memoranda; and

(E) Other individuals identified in connection with questions presented to the Office of Legal Counsel for resolution or comment.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of memoranda, correspondence, testimony and other writings of the Office of Legal Counsel from 1945 to the present.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is maintained pursuant to the responsibilities of the Office of Legal Counsel set forth in 28 CFR 0.25.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information *contained* in this system is provided to the following categories of users for the purposes stated:

(A) Access to the computerized files of the Office of Legal Counsel will be confined to employees of the Office of Legal Counsel and other employees of the Department of Justice with specific permission.

(B) With the approval of the agency that requested the opinion, selected recent opinions of the Office of Legal Counsel will be published for general use, but personal information about individuals will be deleted if release of that information would constitute a clearly unwarranted invasion of personal privacy;

(C) Unpublished opinions of the Office of Legal Counsel are ordinarily made available upon request to third parties consistent with the Freedom of Information Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The indices are maintained on 5 x 7 cards in a master subject-matter index on all Office of Legal Counsel memoranda, opinions, correspondence, testimony and other writings. In addition, to facilitate Freedom of Information Act/Privacy Act searches, an alphabetical assortment of cards has been established within the immigration and conflict of interest opinion indices which contain the names of individuals who are the subjects of these opinions. These are, in effect, cross-indices to a small portion of the Office of Legal Counsel's overall opinions that are otherwise indexed and retrieved according to subject matter. These indices are maintained to assist in the retrieval of opinions and memoranda from chronological files. However, because the system is undergoing gradual conversion to a computerized system to facilitate legal research, some opinions are also now stored on magnetic disks. Even though the software design creates the capability for name retrieval, the purpose of the design is to facilitate retrieval by legal subject matter and the Office of Legal Counsel will continue to utilize the system in this manner.

RETRIEVABILITY:

The alphabetical card index on conflict of interest and immigration opinions will be retrieved by name. In addition, while that information which has been entered into the computer to date may be retrieved by name, all information, except that on conflict of interest and immigration opinions, will ordinarily continue to be retrieved by legal subject matter since the Office seldom has need to focus on a name in legal research.

SAFEGUARDS:

Index cards and chronological files are kept in locked offices when unattended. Access is restricted to those personnel with a need to know.

The compilation of Office of Legal Counsel opinions available on magnetic tape is subject to two access limitations designed to insure that only authorized personnel of the Office of Legal Counsel have access. First, the opinions in the computer system can be retrieved only by those persons having a specified identification number, and numbers are assigned only to personnel of the Office of Legal Counsel. Second, there is an access code word in addition to the identification number required for access to the opinions, and the code word is made known only to the Office of Legal Counsel personnel.

During the period in which new opinions are being computerized an exception to these access restrictions is made so that the contracting assistant in the Justice Management Division who is overseeing the computerization also has access to the opinions.

RETENTION AND DISPOSAL:

The records will be maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, Office of Legal Counsel; U.S. Department of Justice; 10th and Constitution Avenue, NW.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the Assistant Attorney General, Office of Legal Counsel, at the address above.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

General legal research sources and individuals and agencies requesting opinions from the Office of Legal Counsel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 85-21019 Filed 9-3-85; 8:45 am]
BILLING CODE 4410-01-M

[AAG/A Order No. 19-85]

Privacy Act of 1974; Modified System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Office of Legal Counsel, Department of Justice, is amending its system of records entitled "Attorney Assignment Reports, JUSTICE/OLC-001" by revising the "Retention and disposal" section. The notice, which is reprinted below in its revised form, was last published in the **Federal Register** on September 30, 1977 (42 FR 53361.)

Dated: August 19, 1985.

Lawrence W. Wallace,

Assistant Attorney General for Administration.

JUSTICE/OLC-001

SYSTEM NAME:

Attorney Assignment Reports.

SYSTEM LOCATION:

Office of Legal Counsel; U.S. Department of Justice; 10th and Constitution Avenue, NW.; Washington, D.C.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys employed in the Office of Legal Counsel, U.S. Department of Justice at the time each report was filed.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of memoranda addressed to the Assistant Attorney General by each staff attorney at periodic intervals listing current assignments. Some reports also list completed assignments, projected workload and anticipated leave.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are kept for administrative convenience pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from the system is not used outside the Department except to advise Executive Branch agencies as to the identity of the attorney working on a specific assignment, when inquiry is made.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Release of information to the National Archives and Records Administration: A record from a system of records may be disclosed as a routine use to the National Archives and Records Administration (NARA) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Assistant Attorney General, each of his Deputies, the Administrative Officer and the attorney who filed the report each have copies. Some are retained chronologically in file folders, some alphabetically in note books.

RETRIEVABILITY:

Information may be retrieved by name, alphabetically, or chronologically.

SAFEGUARDS:

Information is maintained in offices occupied during the day and locked at night.

RETENTION AND DISPOSAL:

The Assistant Attorney General's file is chronological and is maintained for three months. Attorneys may retain their copies indefinitely, others are kept for about two years and disposed of.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Office of Legal Counsel; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURES:

Address inquiries to the System Manager, the Administrative Officer or the two Deputies at the above address.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system may be made in person or in writing, specifying the name of the attorney and the dates of reports requested.

CONTESTING RECORD PROCEDURES:

Any requests for correction should be addressed to the System Manager.

RECORD SOURCE CATEGORIES:

Information is supplied by the attorneys employed by the Office of Legal Counsel on the date the report is filed.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 85-21020 Filed 9-3-85; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council Committee; Meeting and Agenda

A special meeting of the committee on Occupational Safety and Health Statistics of the Labor Research Advisory Council will be held on October 2, 1985, at 1:00 p.m., in Room N-3437, A&B, of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members.

The agenda for the meeting is as follows:

Review of "Recordkeeping Guidelines for Occupational Injuries and Illnesses," during 90-day period for public comment on the guidelines published in the **Federal Register**.

The meeting is open. It is suggested that persons planning to attend as observers contact Joseph P. Goldberg, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 523-0001.

Signed at Washington, D.C. this 26th day of August 1985.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 85-21066 Filed 9-3-85; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; NRC Corp. et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period August 19, 1985–August 23, 1985.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to workers separations at the firm.

TA-W-15,920; NCR Corporation, Personnal Computer Div., Liberty, SC

TA-W-16,016; Bohemia, Inc., Auburn, CA

TA-W-15,911; Kellwood Co., Grenda, MS

TA-W-15,985; Standard-Coosa-Thatcher Co., Thatcher Plant, Chattanooga, TN

TA-W-15,985A; Standard-Coosa-Thatcher Co., Standard Plant, Chattanooga, TN

TA-W-15,985B; Standard-Coosa-Thatcher Co., National Plant, Rossville, GA

TA-W-16,091; Russel Williams Co., Mahony City, PA

TA-W-15,906; Avtex Fibers, Inc., Meadville, PA

In the following cases the investigation revealed the criterion (3) has not been met for the reasons specified.

TA-W-16,009; H.L. Balsinger, Inc., New Salem, PA

Aggregate U.S. imports of ammonium nitrate fuel oil are negligible.

TA-W-16,107; Mount Braddock Land Co., Mount Braddock, PA

Aggregate U.S. imports of bituminous coal are negligible.

TA-W-15,955; Atari, Inc., El Paso, TX

Layoffs due to changes in consumer demand not directly related to imports of like or competive products.

TA-W-15,951; Harman-Motive, Inc., Martinsville, IN

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-15,907; Cooper Wiss, Newark, NJ

Separations from the subject firm were due to the transfer of fuctions to another domestic facility.

TA-W-15,849; Champion International Corp., Building Products Div., Plywood Plant, Seattle, WA

Aggregate U.S. imports of plywood did not increase as required for certification.

TA-W-15,988; Welland Chemical Inc., Newell, PA

Aggregate U.S. imports of nitric acid are negligible.

TA-W-16,022; Virginia Maid Hosiery Mills, Pulaski, VA

Aggregate U.S. imports of pantyhose are negligible.

TA-W-16,060; Centralab, Inc., El Paso, TX

Employment at the El Paso, TX facility is dependent on imported capacitors, imports cannot be considered to any adversely impacted workers within the meaning of the Trade Act of 1974.

TA-W-16,055; Transport, Inc., Grand Forks, ND

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-16,020; Tube-Lok Products, Mattoon IL

Aggregate U.S. imports of rollover protection systems for construction equipment are negligible.

Affirmative Determinations

TA-W-15,939; Abex Corporation, Elyria, OH

A certification was issued covering all workers of the firm separated on or after October 1, 1984.

TA-W-15,884; George J. Meyer Manufacturing, Cudahy, WI

A certification was issued covering all workers of the firm separated on or after March 11, 1985.

TA-W-15,916; Damon International, Limited, Newberry, SC

A certification was issued covering all workers of the firm separated on or after March 28, 1984.

TA-W-15,969; Texaco, Inc., Amarillo, TX

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA-W-16,087; Joanola Fabrics, Elizabeth, NJ

A certification was issued covering all workers of the firm separated on or after May 20, 1984 and before October 30, 1984.

TA-W-15,973; White Stag Manufacturing Co., El Paso TX

A certification was issued covering all workers of the firm separated on or after April 15, 1984 and before December 31, 1984.

TA-W-15,944; Kayser-Roth Hosiery, Inc., Footware Div., Marietta, GA

A certification was issued covering all workers of the firm separated on or after February 1, 1985.

TA-W-15,869; Brandt Cabinet Works, Inc., Hagerstown, MD

A certification was issued covering all workers of the firm separated on or after March 11, 1984 and before February 1, 1985.

TA-W-16,011; Pico Products, Inc., Liverpool, NY

A certification was issued covering all workers of the firm separated on or after March 1, 1984 and before June 30, 1985.

TA-W-15,901; Waverly Sportsware, New York, NY

A certification was issued covering all workers of the firm separated on or after May 15, 1984 and before December 30, 1984.

TA-W-15,917; Enro Shirt Co., Woodruff, SC

A certification was issued covering all workers of the firm separated on or after September 1, 1984 and before August 1, 1985.

TA-W-15,922; Spielberg Manufacturing Co., Antonia, MO

A certification was issued covering all workers of the firm separated on or after March 27, 1984.

TA-W-15,843; Nutone Division of Scovill Corp., Cincinnati, OH

A certification was issued covering all workers of the firm separated on or after March 6, 1984.

TA-W-16,039; Litton Microwave Cooking Products Div., Litton Industries, Minneapolis, NM

A certification was issued covering all workers of the firm separated on or after October 1, 1984.

TA-W-16,008; Fleet Air Corp., Ephrata, PA

A certification was issued covering all workers of the firm separated on or after May 6, 1984.

TA-W-16,006; Bomer Bait Co., Gainesville, TX

A certification was issued covering all workers of the firm separated on or after January 1, 1984.

TA-W-15,980; Espy Shoe, Inc., Lewiston, ME

A certification was issued covering all workers of the firm separated on or after April 24, 1984 and before December 2, 1984.

TA-W-15,913; Romany Ceramics, Inc., East Sparta, OH

A certification was issued covering all workers of the firm separated on or after September 1, 1984.

TA-W-15,905; Alcan Aluminum Corp., Alcan Ingot & Recycling Div., Sebree, KY

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA-W-15,912; North Shore Sportswear Co., Glen Cove, Long Island, NY

A certification was issued covering all workers of the firm separated on or after April 1, 1984.

TA-W-16,018; Perry Manufacturing Corp., Perryopolis, PA

A certification was issued covering all workers of the firm separated on or after July 1, 1984.

TA-W-16,043; Roosevelt Mills, Inc., Rockville, CT

A certification was issued covering all workers of the firm separated on or after November 1, 1984 and before May 1, 1985.

TA-W-15,889; Weyerhaeuser Co., Green Mountain Mill, Tautle, WA

A certification was issued covering all workers of the firm separated on or after March 12, 1984.

TA-W-15,890; Weyerhaeuser Co., Longview Woods, Longview Log Transportation Crew, Longview Finishing Mill, Longview, WA

A certification was issued covering all workers of the firm separated on or after March 12, 1984.

TA-W-15,925; U.S. Steel Corporation, Geneva Works, Provo, UT

A certification was issued covering all workers except those engaged in employment related to the production of steel plate separated on or after March 29, 1985.

TA-W-15,925A; U.S. Steel Corp., Pittsburg Works, Pittsburg, CA

A certification was issued covering all workers engaged in employment related to the production of tin plate separated on or after January 1, 1985 and all other employees of the Pittsburg Works separated from employment on or after March 29, 1985 are eligible for trade adjustment assistance.

I hereby certify that the aforementioned determinations were issued during the period August 19, 1985–August 23, 1985. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW., Washington, D.C. during normal business hours or will be mailed to persons who write to the above address.

Dated: August 27, 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-21062 Filed 9-3-85; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; National Semi-Conductor et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 16, 1985.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 16, 1985.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 26th day of August 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
National Semi-Conductor (workers)	West Jordon, UT	8/14/85	8/7/85	TA-W-16,324	Semi-conductor ships, computer chips.
AT&T Network Systems (IBEW)	Columbus, OH	8/14/85	8/8/85	TA-W-16,325	Phone switch relays.
Avon Knitting Mills Inc. (ACTWU)	Fairview, NJ	8/14/85	8/7/85	TA-W-16,326	Rashel lace fabrics, knitting fabrics.
Beatty Machine & Manufacturing Co. (workers)	Hammond, IN	8/15/85	7/30/85	TA-W-16,327	Punch presses and major metal working equipment.
(The) Black & Decker Co., Inc. (UE)	Allentown, PA	8/22/85	8/19/85	TA-W-16,328	Household appliances.
Caterpillar Tractor Co. (UAW)	York, PA	8/21/85	8/14/85	TA-W-16,329	Component parts for heavy equipment.
Champion International Corp. (IWA)	McCloud, CA	8/15/85	8/12/85	TA-W-16,330	Plywood, lumber.
Cumberland Blouse, Inc. (workers)	Cumberland, MD	8/14/85	8/9/85	TA-W-16,331	Blouses & shorts.
Elka Plastics (ACTWU)	Bayonne, NJ	8/14/85	8/7/85	TA-W-16,332	Plastic tablecloths.
Grand Prix Sportswear, Inc. (workers)	Lindenhurst, NY	8/21/85	8/19/85	TA-W-16,333	Contractor of ladies skirts.
Mallory Timers Co. (workers)	Frankfort, IN	8/19/85	8/13/85	TA-W-16,334	Electrical timing devices.
Marathon Steel Co., Rolling Mill Division (USWA)	Tempe, AZ	8/14/85	8/5/85	TA-W-16,335	Rebar.
Consolidation Coal Co. (UMWA)	Greensboro, PA	8/6/85	8/2/85	TA-W-16,336	Metallurgical coal.
LTV Steel Company (USWA)	Beaver Falls, PA	8/14/85	8/9/85	TA-W-16,337	Auto parts, flat bars, shape bars.
Nu-Method Dyeing & Processing (ACTWU)	Union City, NJ	8/14/85	8/7/85	TA-W-16,338	Textile dyeing and finishing.
Penn Aluminum International (IUE)	Erie, PA	8/19/85	8/14/85	TA-W-16,339	Aluminum tubing—extrusion & fabrication.
Placerville Lumber Co. (Brotherhood of Carpenters)	Placerville, CA	7/29/85	7/25/85	TA-W-16,340	Lumber and other wood products.
Pioneer Ltd. Plant No. 2 (workers)	Lake City, SC	8/20/85	8/14/85	TA-W-16,341	Childrens clothing.
Rock Hall Manufacturing (ACTWU)	Rock Hall, MD	8/7/85	8/5/85	TA-W-16,342	Blouses—ladies.
Steven Apparel Manufacturing Co., Inc. (workers)	Hazleton, PA	8/22/85	8/1/85	TA-W-16,343	Ladies sportswear and jogging suits.
Storage Technology (workers)	Louisville, CO	8/20/85	8/16/85	TA-W-16,344	Printed circuit cards.
Trimfoot Shoe Co. (workers)	Farmington, MO	8/12/85	8/7/85	TA-W-16,345	Baby shoes, soft soles, walkers, and sneakers.
TRW, Inc., Resistive Products Division (company)	Boone, NC	8/19/85	8/14/85	TA-W-16,346	Resistors—home entertainment, computers, and auto.
TRW Inc., Resistive Products Division (company)	Newland, NC	8/19/85	8/14/85	TA-W-16,347	Do.
Data Products Corp. (workers)	Juncos, PR	7/31/85	6/28/85	TA-W-16,348	P.C boards.
United Technologies—Mostek Corp. (wkrs)	Colorado Springs, CO	8/20/85	8/15/85	TA-W-16,349	Integrated circuits.
Wito Chemical Corp. (OCAW)	Lawrenceville, IL	8/19/85	8/15/85	TA-W-16,350	Asphalt roofing products.

[FR Doc. 85-21061 Filed 9-3-85; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-16,120; 16,121; 16,122; 16,123]

Oneita Knitting Mills Andrews and Fingerville, SC; Termination of Investigations

Pursuant to section 221 of the Trade Act of 1974, investigations were initiated on June 24, 1985 in response to worker petitions received on June 18, 1985 which were filed on behalf of workers at Oneita Knitting Mills, Andrews, South Carolina (TA-W-16,120); Oneita Knitting Mills, Fingerville, South Carolina (TA-W-16,121); Mars Bluff Industries, Florence, South Carolina (TA-W-16,122) and Hebron Textiles, Cades, South Carolina (TA-W-16,123).

The petitioner has requested that the petitions be withdrawn. Consequently, further investigation in these cases would serve no purposes; and the investigations have been terminated.

Signed at Washington, D.C., this 27th day of August 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-21063 Filed 9-3-85; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-16,134]

W.I. Forest Products, Thompson Falls, MT; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 28, 1985 in response to a worker petition received on June 25, 1985 which was filed by the Lumber, Production and Industrial Workers on behalf of workers at W.I. Forest Products, Thompson Falls, Montana.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 27th day of August 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-21064 Filed 9-3-85; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 85-144; Exemption Application No. D-5280 et al.]

Grant of Individual Exemptions; the McShane & Bowie Profit Sharing Plan et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The McShane & Bowie Profit Sharing Plan (the Plan) Located in Grand Rapids, Michigan

[Prohibited Transaction Exemption 85–144; Exemption Application No. D–5280]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code, shall not apply to the loan of the lesser of $150,000 or 25% of the Plan's assets to McShane & Bowie, under the terms set forth in the notice of proposed exemption, provided such terms are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party. Section 408(d)(1) of the Act provides that the Department lacks authority to grant an exemption under section 408(a) of the Act for the lending of any part of the corpus or the income of a plan to an owner-employee. Therefore, the Department cannot grant an exemption under Title I for the subject loan. However, the Department can grant an exemption under Title II of the Act, pursuant to section 4975 of the Code.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 2, 1985 at 50 FR 27379.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Health Systems Group Retirement Plan and Trust (the Plan) Located in Vancouver, Washington

[Prohibited Transaction Exemption 85–145; Exemption Application No. D–5692]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reasons of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the prior sale for cash of an undivided one-half interest in certain real property (the Property) by the Plan to the Seattle-First National Bank, a party in interest with respect to the Plan, provided that the price received was no less than the fair market value of the Property at the time the transaction was consummated.

For a more complete statement of the facts and representations supporting the Department's decisions to grant this exemption refer to the notice of proposed exemption published on July 14, 1985, at 50 FR 28663.

Effective Date: The effective date of the exemption is December 12, 1983.

For Further Information Contact: Mr. C.E. Beaver of the Department, telephone (202) 523–7901. (This is not a toll-free number.)

Incline Glass, Inc. Money Purchase Pension Plan and Incline Glass, Inc. Defined Benefit Pension Plan (the Plans) Located in Incline Village, Nevada

[Prohibited Transaction Exemption 85–146; Exemption Application Nos. D–5945 and D–5946]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Plans of a parcel of improved real property to Patrick and Ann Geary, parties in interest with respect to the Plans, provided that all terms of the transaction are at least equivalent to those which the Plans could obtain in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 8, 1985 at 50 FR 27857.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Jahn Refrigeration Company, Inc. Defined Benefit Plan & Trust (the Plan) Located in Yoakum, Texas

[Prohibited Transaction Exemption 85–147; Exemption Application No. D–6022]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan of 20 units (the Units) of Shelter Properties III, a real estate limited partnership, to Rudolph Jahn, a 30% shareholder in Jahn Refrigeration Company, Inc., and the Plan trustee, for the net asset value of the Units.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 2, 1985 at 50 FR 27386.

For Further Information Contact: David Lurie of the Department, telephone (202) 523–8884. (This is not a toll-free number.)

Big City Productions, Inc. Pension Trust (the Plan) Located in New York, New York

[Prohibited Transaction Exemption 85–148; Exemption Application No. D–6029]

Exemption

The restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) the proposed series of loans (the Loans) of no more than twenty-five percent (25%) of the fair market value of the assets of the Plan as of the date of the Loans are made to Big City Productions, Inc., the employer and sponsor of the Plan, provided that the terms and conditions of the Loans are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party; and (2) the guarantee of the Loans by Steven Steigman, a party in interest with respect to the Plan.

Temporary Nature of Exemption

The exemption is temporary and, will expire in ten years after the inception of the first of the Loans. Should the applicant wish to continue entering into loan transactions or to extend the maturity date of any existing Loans beyond the ten year period prescribed in this exemption, the applicant may submit another application for exemption relief.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 8, 1985 at 50 FR 27858.

For Further Information Contact: Angelena C. Le Blanc of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

Tony's Auto Parts, Inc. Money Purchase Pension Plan (the Pension Plan) and Tony's Auto Parts, Inc. Profit Sharing Plan (the Profit Sharing Plan; collectively, the Plans) Located in Marrero, LA

[Prohibited Transaction Exemption 85-149; Exemption Application Nos. D-6091 and D-6092]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code, shall not apply to loans (the Loans) by the Pension Plan and the Profit Sharing Plan, not exceeding 25 percent of each Plan's assets, to Bertucci Properties, a party interest with respect to the Plans, provided the terms and conditions of the Loans are at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 8, 1985 at 50 FR 27860.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 29th day of August 1985.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85-21053 Filed 9-3-85; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Ad Hoc Group on Arts Education; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Ad Hoc Group on Arts Education to the National Council on the Arts will be held on September 19, 1985, from 9:00 a.m.-5:30 p.m. in room M-14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topic for discussion will be FY 87 Guidelines for Art in Education.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: August 27, 1985.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85-20998 Filed 9-3-85; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Visual Arts Advisory Panel (Overview Meeting) of the National Council on the Arts will be held on September 19, 1985, from 9:30 a.m.-6:00 p.m. and on September 20, 1985, from 9:30 a.m.-5:00 p.m. in room 415 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics for discussion will be Visual Artists Fellowships, Visual Artists Organizations, Visual Artists Forums, Art in Public Places and the Five-Year Plan.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: August 27, 1985.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85-20997 Filed 9-3-85; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Issuance and Availability Draft NUREG-1030, Seismic Qualification of Equipment in Operating Nuclear Power Plants and Regulatory Analysis for Proposed Resolution of Unresolved Safety Issue A-46

The U.S. Nuclear Regulatory Commission (NRC) staff is issuing for public comment a report entitled, "Seismic Qualification of Equipment in Operating Nuclear Power Plants," (DRAFT NUREG-1030) and a Regulatory Analysis document in support of the staff's proposed resolution of the NRC's Task A-46, "Seismic Qualification of Equipment in Operating Nuclear Power Plants." This issue was identified as an "Unresolved Safety Issue" in the 1980 Annual Report pursuant to section 210

of the Energy Reorganization Act of 1974.

The safety issue in Unresolved Safety Issue (USI) A–46 is the concern that the margins of safety provided by equipment in operating nuclear power plants under seismically induced loads may vary considerably, due to the significant changes in criteria and methods for seismic qualification of equipment which have been adopted since these plants were reviewed for their operating license. The objective of USI A–46 was to develop methods and/or acceptance criteria to assess the seismic capability of safety-related mechanical and electrical equipment in operating nuclear power plants, in lieu of requiring qualification to current licensing requirements as defined in Standard Review Plan Section 3.10, Regulatory Guide 1.100 and IEEE Standard-344/1975. Technical investigations completed under USI A–46 resulted in reducing the scope to only electrical and mechanical equipment required to bring the plant to a hot shutdown condition.

The NRC has concluded from its A–46 investigations (which included use of seismic experience data) that there are two principal areas of concern; the adequacy of equipment anchorages and supports; and the functional capability or inadvertent change of state of electrical relays during the strong shaking motion of an earthquake. It is therefore proposed that licensees of nuclear power plants that were not reviewed to current licensing requirements perform a seismic adequacy review of equipment needed for safe shutdown, with emphasis on equipment anchorages and supports and relay functional capability. Methods and procedures for such review are included in the proposed implementation plan.

Comments are being solicited from interested organizations, groups and individuals.The staff will evaluate the comments received, and address them as appropriate in the final documents.

Copies of the draft documents will be available after August 15, 1985. Copies will be sent directly to utilities, utility industry groups and associations and environmental and public interest groups. Other copies will be available for review at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C.; and the Commission's Local Public Document Rooms located in the vicinity of nuclear power plants. Addresses of these Local Public Document Rooms can be obtained from the Chief, Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 492–7536. Free single copies of the draft documents may be requested by writing to the Publication Services Section, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Comments should be forwarded in writing to Mr. Karl Kniel, Division of Safety Technology, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 by October 1, 1985.

Dated at Bethesda, Maryland this 23rd day of July, 1985.

For The Nuclear Regulatory Commission.

Themis P. Speis,

Director, Division of Safety Technology, Office of Nuclear Reactor Regulation.

[FR Doc. 85–21054 Filed 9–3–85; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council (WHSC); Meeting

The White House Science Council, the purpose of which is to advise the Director, Office of Science and Technology Policy (OSTP), will meet on September 19 and 20, 1985 in Room 5104, New Executive Office Building, Washington, D.C. The meeting will begin at 6:00 p.m. on September 19, recess and reconvene at 8:00 a.m. on September 20. Following is the proposed agenda for the meeting:

(1) Briefing of the Council, by the Assistant Directors of OSTP, on the current activities of OSTP.

(2) Briefing of the Council by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed panel studies.

(3) Discussion of composition of panels to conduct studies.

The September 19 session and a portion of the September 20 session will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b (c)(1), (2), and 9(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b(c)(6).

The portion of the meeting open to the public will begin *approximately* 10:00 a.m. Because of the security in the New Executive Office Building, persons wishing to attend the open portion of the meeting should contact Annie L. Boyd, Secretary, White House Science Council at (202) 456–7740, prior to 3:00 p.m. on September 18. Ms. Boyd is also available to provide further information regarding this meeting.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

August 23, 1985.

[FR Doc. 85–21015 Filed 9–3–85; 8:45 am]

BILLING CODE 3170–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Resident Fish Substitutions Advisory Committee; Meeting

AGENCY: Resident Fish Substitutions Advisory Committee of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Resident fish substitutions preliminary Council decision.
- Resident fish productivity report.
- Losses information consultation.
- Contributions issue scoping.
- Basis issue scoping.
- Terms/responsibilities issue scoping.
- Other.
- Public comment

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Resident Fish Substitutions Advisory Committee.

DATE: October 1, 1985. 9:30 a.m.

ADDRESS: The meeting will be held at the Council office's conference room 850 S. W. Broadway, Suite 1100, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: John Marsh, 503–222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 85–21000 Filed 9–3–85; 8:45 am]

BILLING CODE 0000–00–M

Losses and Goals Advisory Commnittee: Meeting

AGENCY: Losses and Goals Advisory Committee of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Losses informations consultation.
- Contributions issue scoping.
- Basis issue scoping.
- Terms/responsibilities issue scoping.
- Other.
- Public comment.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Losses and Goals Advisory Committee.

DATE: September 26, 1985. 9:30 a.m.

ADDRESS: The meeting will be held at the Ramada Airport Inn, Spokane, Washington.

FOR FURTHER INFORMATION CONTACT: John Marsh, 503–222–5161.

Edward Sheets,

Executive Director.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–22355]

List of Foreign Issuers Which Have Submitted Information Required by the Exemption Relating to Certain Foreign Securities

Foreign private issuers with total assets in excess of $3,000,000 and a class of equity securities held of record by 500 or more persons, of which 300 or more shareholders reside in the United States, are subject to the registration and reporting provisions of the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)] (the "Act").[1]

Rule 12g3–2(b) (17 CFR 240.12g3–2(b)) provides an exemption from registration under Section 12(g) of the Act for a foreign issuer which submits on a current basis material specified in the Rule to the Commission. Such required material includes that information about which investors ought reasonably to be informed with respect to the issuer and its subsidiaries and which the issuer: (1) Has made public pursuant to the law of the country of its domicile or in which it is incorporated or organized; (2) has filed with a stock exchange on which its securities are traded and which was made public by such exchange; and/or (3) has distributed to its security holders.

On October 6, 1983, the Commission revised Rule 12g3–2(b) by terminating the availability of the exemptive rule to certain foreign issuers with securities quoted on NASDAQ (see Securities Exchange Act Release No. 20264, October 6, 1983). Securities of non-Canadian issuers in compliance with the information-supplying exemption as of October 6, 1983 and currently quoted in NASDAQ were grandfathered indefinitely.[2] However, the exemption was extended to Canadian securities only until January 1986.

When it adopted Rule 12g3–2 and other rules relating to foreign securities (see Securities Exchange Act Release No. 8066, April 28, 1967), the Commission indicated that from time to time it would issue lists containing those foreign issuers which have obtained exemptions from the registration provisions of Section 12(g) of the Act by providing the information specified in Rule 12g3–2(b). The purpose of the present release is to call to the attention of brokers, dealers and investors that some form of relatively current information concerning the foreign issuers included on the attached list is available in the public files of the Commission. The attached list includes those foreign issuers which, as of July 31, 1985, appear to be current in submitting the information specified in Rule 12g3–2(b).

The Commission also wishes to bring to the attention of brokers, dealers, and investors the fact that current information concerning certain foreign issuers may not be available in the United States. The Commission continues to expect that brokers and dealers will consider this fact in connection with their obligations under the federal securities laws to have a reasonable basis for recommending these securities to their customers. The Commission will continue to review activity in the markets for foreign securities to determine whether the present rules are achieving their purpose and whether further rules or rule revisions are necessary in the public interest or for the protection of investors.

Any questions regarding Rule 12g3–2 or the list included herein should be directed to Carl T. Bodolus or Martin Meyrowitz, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549 ((202) 272–3246). Requests for copies of the documents in the files should be directed to the Public Reference Room, Securities and Exchange Commission, Washington, D.C. 20549 (202) 272–7450.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

August 26, 1985.

Company	File No.	Country
ABO Oil Corp	82–961	Canada.
AGA	82–800	Sweden.
AHA Automotive Technologies Corp.	82–928	Canada
AMCA Resources, Ltd	82–434	Do.
ARC International Corp	82–710	Do.
ASEA AB	82–736	Sweden.
Abitibi Paper Co., Ltd	82–80	Canada.
Acquest Enterprise Ltd	82–889	Do.
Adams Silver Resources Inc.	82–831	Do.
Afrikander Lease Ltd	82–245	South Africa.
Agnico-Eagle Mines Ltd	82–179	Canada.
Aiguebelle Resources Inc	82–745	Do.
Akzo, N.V	82–1016	Holland.
Albert Fisher Group, PLC	82–1020	United Kingdom.
Algoma Steel Corp. Ltd	82–99	Canada.
Allied-Lyons PLC	82–878	United Kingdom.
Alpha-Omega Resources Corp.	82–1051	Canada.
Amark Explorations	82–458	Do.
American Budgetel Inc	82–941	Do.
American Microlink Inc	82–908	Do.
Amhawk Resource Corp	82–742	Do.
Amstar Venture Corpo	82–814	Do.
Anchor Gold Corp	82–996	Do.
Anglo American Corp. of South Africa.	82–97	South Africa
Anglo American Gold Investment Co., Ltd.	82–146	South Africa
Applied Energy Inc	82–954	Canada.
Argus Corporation Ltd	82–920	Do.
Arivica Silver Mines	82–652	Do.
Arizona Silver Corp	82–418	Do.
Armeno Resources Inc	82–1027	Do.
Asitka Resource Corp	82–934	Do.
Atlas Copco AB	82–812	Sweden.
Australian Hydrocarbons N.L.	82–856	Australia.
Avalanche Industries Ltd	82–620	Canada.
B.A.T. Industries Ltd	82–33	United Kingdom.
B.D.C. Industries Corp	82–856	Canada.
B.T.R. PLC	82–898	United Kingdom.
Baker Gold Ltd	82–780	Canada.
Banbury Gold Mines Ltd	82–826	Do.

[1] Foreign issuers may also be subject to such requirements of the Act by reason of having securities registered and listed on a national securities exchange in the United States or subject to the reporting requirements by reason of having registered securities under the Securities Act of 1933 [15 U.S.C. 77a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)].

[2] Unless, of course, the securities are delisted from NASDAQ or the issuer fails to maintain or otherwise meet the requirements of the exemption.

Company	File No.	Country
Banco Espagnol de Credito	82-982	Spain.
Bank of Montreal	82-126	Canada.
Barr Resources Ltd	82-1047	Do.
Basic Resources S.A	82-203	Luxembourg.
Bass Strait Oil and Gas (Holdings) N.L.	82-931	Australia.
Beatrix Mines Ltd	82-1054	Soputh Africa.
Beauty Counselors International Inc.	82-725	Canada.
Beaver Resources Inc	82-436	Do.
Beecham Group P.L.C	82-22	United Kingdom.
Belgium Standard Ltd	82-668	Canada.
Bell Resources Ltd	82-919	Australia.
Belmont Resources Inc	82-686	Canada.
Best Resources Inc	82-979	Do.
Bishop Resources Development Ltd.	82-1005	Do.
Black Gold Oil & Gas Ltd	82-703	Do.
Black Jade Resources Ltd	82-901	Do.
Blue Circle Industries PLC	82-927	United Kingdom.
Bluesky Oil & Gas Ltd	82-473	Canada.
Blyvooruitzicht Gold Mining Co., Ltd.	82-69	South Africa.
Bond Corporation Holdings Ltd.	82-998	Australia.
Bowater Corporation P.L.C	82-3	United Kingdom.
Bowes Lyon Resources Ltd	82-974	Canada.
Brace Resources Ltd	82-1014	Do.
Bracken Mines Ltd	82-219	South Africa.
Brahma Resources Inc	82-1022	Canada.
Bralorne Resources Ltd	82-143	Do.
Brascan Ltd	82-4	Do.
Breakwater Resources Ltd	82-653	Do.
Brent Resources Group Ltd	82-321	Do.
Brican Resources Ltd	82-294	Do.
British Pacific Resources Inc.	82-965	Do.
Broken Hill Proprietary Co., Ltd.	82-81	Australia.
Buffelsfontein Gold Mining Co., Ltd.	82-302	South Africa.
Burmah Oil Co. Ltd	82-5	United Kingdom.
Butler Mountain Minerals Corp.	82-727	Canada.
C.T. Exploranda Ltd	82-782	Do.
Caara Ventures Inc	82-895	Do.
Canada Tungsten Mining Corp., Ltd.	82-290	Do.
Canadian Imperial Bank of Commerce.	82-103	Do.
Canadian Marconi Co	82-88	Do.
Canadian Pawnee Oil Corp	82-733	Do.
Canadian-United Minerals, Inc.	82-869	Do.
Canfic Resources Ltd	82-691	Do.
Canuck Resources Corp	82-942	Do.
Cape Range Oil N.L	82-623	Australia.
Carpets International PLC	82-943	United Kingdom.
Carr Boyd Minerals Ltd	82-1037	Australia.
Cater Energy, Inc	82-629	Canada.
Celanese Canada Ltd	82-171	Do.
Celebrity Energy Corp	82-810	Do.
Celico Resources Ltd	82-1033	Do.
Celtic Resources	82-999	Do.
Central Pacific Minerals Ltd	82-354	Australia.
Century Energy Corp	82-640	Do.
Challenger International Services Ltd.	82-369	Do.
Chancellor Energy Resources Inc.	82-487	Do.
Charlemagne Resources Ltd.	82-912	Do.
Charter Consolidated P.L.C	82-233	United Kingdom.
Charter Mining N.L	82-431	Australia.
Checkmate Resources Ltd	82-850	Canada.
Chutine Resources Ltd	82-867	Do.
Claremont Petroleum N.L	82-890	Australia.
Coats Patons PLC	82-986	United Kingdom.
Cochrane Oil & Gas Ltd	82-501	Canada.
Colby Resources Corp	82-417	Do.
Cominco Ltd	82-107	Do.
Computer Services Corp	82-781	Japan.
Concept Resources Ltd	82-405	Canada.
Concert Resources	82-1003	Do.
Condor Minerals and Energy Ltd.	82-830	Australia.
Conex Australia N.L	82-319	Do.
Conigas Mines Ltd	82-168	Canada.
Consolidated Bathurst Ltd	82-172	Do.
Consolidated Cinola Mines Ltd.	82-310	Do.
Consolidated Gold Fields P.L.C.	82-251	United Kingdom.
Consolidated Knobby Lake Mines Ltd.	82-336	Canada.
Consolidated Professor Mines Ltd.	82-625	Do.
Consort Energy Corp	82-993	Do.
Consumers Distributing Co., Ltd.	82-297	Do.
Continental Bank of Canada.	82-120	Do.
Continental Silver Corp	82-421	Do.
Coppers Resources N.L	82-444	Australia.
Copper Bounty Mines Ltd	82-694	Canada.
Copper Lake Explorations Ltd.	82-394	Do.
Cord Holdings Ltd	82-988	Australia.
Coronet Resources Ltd	82-1052	Canada.
Cosoka Resources Ltd	82-295	Do.
Cosmos Resources Inc	82-1023	Do.
Cracow Gold Ltd	82-917	Australia.
Cruz Silver Mines Inc	82-987	Canada.
Crystal Mountain Resources Ltd.	82-1063	Do.
Cusac Industries Ltd	82-367	Do.
Cutlass Industries Corp	82-1012	Do.
CV Sportsmark International Inc.	82-593	Do.
Czar Resources Ltd	82-406	Do.
DRC Resources Corp	82-713	Do.
Dai'Ei Inc	82-230	Japan.
Daon Development Corp	82-344	Canada.
DeBeers Consolidated Mines, Ltd.	82-91	South Africa.
Deelkraal Gold Mining Co., Ltd.	82-246	Do.
Denison Mines Ltd	82-155	Canada.
Deutsche Bank A.G	82-334	Germany.
Dickenson Mines Ltd	82-8	Canada.
Discovery Gold Explorations Ltd.	82-1025	Do.
Discovery Mines Ltd	82-1046	Do.
Dofasco Ltd	82-114	Do.
Dominion Explorers Ltd	82-504	Do.
Domtar Inc	82-18	Do.
Doornfontein Gold Mining Co., Ltd.	82-213	South Africa.
D'Or Val Mines Ltd	82-740	Canada.
Dowty Group PLC	82-1006	United Kingdom.
Dresdner Bank A.G	82-229	Germany.
Driefontein Consolidated Ltd.	82-124	South Africa.
Dunlop Holdings PLC	82-985	United Kingdom.
Du Pont of Canada	82-19	Canada.
Durban Roodepoort Deep Ltd.	82-156	South Africa.
Durham Resources Inc	82-176	Canada.
Dynamar Energy Ltd	82-779	Do.
Dynamic Oil Ltd	82-702	Do.
Eagle Corp. Ltd	82-476	Australia.
East Daggafontein Mines Ltd.	82-42	South Africa.
East Rand Gold and Uranium Co., Ltd.	82-289	Do.
East Rand Proprietary Mines Ltd.	82-239	Do.
East West Resource Corp	82-787	Canada.
EdenRoc Mineral Corp	82-845	Do.
Egoli Consolidated Mines Ltd.	82-909	South Africa.
Ekaton Energy Ltd	82-1055	Canada.
El Dorado Systems (Canada) Ltd.	82-855	Do.
Elandsrand Gold Mining Co., Ltd.	82-266	South Africa.
Electra North West Resources Ltd.	82-718	Canada.
Electrolux, A.B	82-1030	Sweden.
Emperor Mines Ltd	82-969	Australia.
Energex Minerals Ltd	82-403	Canada.
Energy Systems Holdings Ltd.	82-621	Hong Kong.
Epic Resources (B.C.) Ltd	82-1010	Canada.
Eridania Z.N., Sp.A	82-902	Italy.
Eureka Resources Inc	82-1031	Canada.
Expo Oil N.L	82-489	Australia.
Extotal Resources Inc	82-822	Canada.
FAI Insurance Group	82-1041	Australia.
F.M.G. Telecomputer Ltd	82-759	Canada.
Falconbridge Ltd	82-30	Do.
Fiat S.P.A	82-116	Italy.
Field Petroleum Corp	82-904	Canada.
Firan Corp	82-600	Do.
First Canadian Energy Corp	82-1034	Do.
First Pacific Holdings Ltd	82-836	Hong Kong.
First Western Communications Ltd.	82-984	Canada.
Fisons P.L.C	82-202	United Kingdom.
Fleck Resources Ltd	82-1048	Canada.
Flin Flon Mines Ltd	82-900	Do.
Flow Resources Ltd	82-709	Do.
Fort Knox Minerals Ltd	82-964	Do.
Foseco Minsep PLC	82-952	United Kingdom.
Free State Development & Investment Corp. Ltd.	82-296	Do.
Free State Geduld Mines Ltd.	82-40	South Africa.
Freeway Resources Ltd	82-402	Canada.
Fuji Photo Film Co., Ltd	82-78	Japan.
Futurtek Communications Inc.	82-973	Canada.
Gamin Resources Inc	82-1021	Do.
Genbel Investments Limited.	82-235	South Africa.
General American Technologies Inc.	82-586	Canada.
General Mining Union Corp. Ltd.	82-311	South Africa.
Genex Resources Inc	82-808	Canada.
Geometals N.L	82-398	Australia.
Geotech Resources inc	82-1026	Canada.
Gladiator Resources Ltd	82-975	Do.
Glamis Gold Ltd	82-689	Do.
Glaxo Holdings Ltd	82-10	United Kingdom.
Gold Fields of South Africa Ltd.	82-204	South Africa.
Gold Standard Resources Inc.	82-994	Canada.
Goldale Investments Ltd	82-667	Do.
Goldbrae Developments Ltd.	82-867	Do.
Golden Hope Resources Inc.	82-955	Do.
Golden Lion Resources	82-936	Do.
Golden News Resources Inc.	82-956	Do.
Golden North Resources Corp.	82-343	Do.
Golden Rim Resources	82-957	Do.
Golden Sceptre Resources Ltd.	82-754	Do.
Goldrich Resources Inc	82-618	Do.
Goldstream Resources Ltd	82-1059	Do.
Goldwinn Resources Ltd	82-555	Do.
Goliath Gold Mines Ltd	82-741	Do.
Gordon Resources Ltd	82-677	Do.
Grandma Lee's Inc	82-542	Do.
Grandview Resources Inc	82-971	Do.
Grants Patch Mining, Ltd	82-951	Australia.
Great Eastern Mines Ltd	82-732	Do.
Great Pacific Resources Ltd.	82-948	Canada.
Greenwell Resources Corp	82-825	Do.
Grootvlei Proprietary Mines Ltd.	82-222	South Africa.
Guardian Resource Corp	82-857	Canada.
Guest, Keen and Nettlefolds PLC.	82-1042	United Kingdom.
Gulf Canada Ltd	82-101	Canada.
H.M.C. Australasia N.L	82-874	Australia.
H.T.R. Industries Inc	82-872	Canada.
Hanson Trust PLC	82-924	United Kingdom.
Harlin Resources Ltd	82-907	Canada.
Harmony Gold Mining Co., Ltd.	82-238	South Africa.
Hartogen Energy Ltd	82-597	Australia.
Harvard Securities Ltd	82-1002	United Kingdom.
High Level Resources Ltd	82-1035	Canada.
Highveld Steel & Vanadium Corp. Ltd.	82-596	South Afric.
Highwood Resources Ltd	82-450	Canada.
Hill Minerals N.L	82-1038	Australia.
Hillside Energy Corp	82-938	Canada.
Hokuriku Bank, Ltd. (The)	82-1045	Japan.
Hong Kong and Shanghai Banking Corp.	82-683	Hong Kong.
Hong Kong Land Company Ltd. (The).	82-881	Do.
Ican Resources Ltd	82-801	Canada.
Ice Station Resources Ltd	82-827	Do.
Imasco Ltd	82-118	Do.
Impala Platinum Holdings Ltd.	82-359	South Africa.
Imperial Group P.L.C	82-316	United Kingdom.
Imperial Metals Corp	82-1032	Canada.
Indian Gold Resources Ltd	82-995	Do.
Indian River Resources Inc	82-997	Do.
Ingot Resources Ltd	82-990	Do.
Interaction Resources Ltd	82-705	Do.

Company	File No.	Country
Inter-Globe Resources Ltd	82-257	Do.
International Damascus Resources Ltd.	82-521	Do.
International H.R.S. Industries Inc.	82-250	Do.
International March Resources Ltd.	82-467	Do.
International Megaline Resources Ltd.	82-439	Do.
International Mining Corp., N.L.	82-813	Australia.
International Westward Development.	82-426	Canada.
Interstrat Resources Inc	82-708	Do.
Investors Group	82-13	Do.
Iron Horse Resources Corp.	82-1028	Do.
Irwin Toy Ltd	82-626	Do.
Isuzu Motors Ltd	82-772	Japan.
Jaguar PLC	82-921	United Kingdom.
James Hardie Industries Ltd.	82-972	Australia.
Japan Air Lines	82-122	Japan.
Jarvis Resources Ltd	82-962	Canada.
Joutel Resources Ltd	82-502	Do.
K.W. Resources Ltd	82-1024	Do.
Kaaba Resources Inc	82-1049	Do.
Kalabara Mining N.L	82-774	Australia.
Kerr Addison Mining Ltd	82-14	Canada.
Kettle River Resources Ltd	82-666	Do.
King Solomon Resources Ltd.	82-859	Do.
Kinross Mines Ltd	82-220	South Africa.
Kirin Brewery Co., Ltd	82-188	Japan.
Kitchener Mining N.L	82-967	Australia.
Kloof Gold Mines Co., Ltd	82-205	South Africa.
Knie Resources Inc	82-695	Canada.
La Luz Mines Ltd	82-237	Do.
Lac Minerals Ltd	82-198	Do.
Lacana Mining Corp	82-265	Do.
Lake Shore Mines Ltd	82-15	Do.
Lancaster Resources Corp	82-862	Do.
Lathwell Resources Ltd	82-865	Do.
Lear Oil & Gas Corp	82-873	Do.
Lennard Oil	82-298	Australia.
Lenora Explorations Ltd	82-837	Canada.
Leslie Gold Mines Ltd	82-223	South Africa.
Libanon Gold Mining Co., Ltd.	82-215	Do.
Liberty-Bell Mines Inc	82-958	Canada.
Lincoln Resources Inc	82-349	Do.
Loadmaster Systems, Inc	82-916	Do.
Lode Resources Corp	82-1004	Do.
Lodestar Energy Inc	82-573	Do.
Logan Mines Ltd	82-911	Do.
Logo Resources Ltd	82-407	Do.
Lonrho P.L.C	82-191	United Kingdom.
Loyalist Resources Ltd	82-914	Canada.
Lydenburg Platinum Ltd	82-312	South Africa.
M. I. M. Holdings Ltd	82-173	Australia.
M. T. D. (Mangula) Ltd	82-903	Zimbabwe.
Mac-Am Resources Corp	82-605	Canada.
MacLean-Hunter Ltd	82-485	Do.
Madre Mining Ltd	82-529	Do.
Magnet Group Ltd	82-299	Australia.
Magnus Resources Ltd	82-1065	Canada.
Majestic Resources Corp	82-721	Do.
Majesty Resources Corp	82-674	Do.
Malartic Hygrade Gold Mines (Canada).	82-667	Do.
Mandusa Resources Ltd	82-1062	Do.
Marietta Resources Corp	82-1040	Do.
Marievale Consolidated Mines Ltd.	82-224	South Africa.
Mariner Explorations Inc	82-886	Canada.
Markway Resources Ltd	82-427	Do.
Marshall Minerals Corp	82-722	Do.
Maverick Mountain Resources Ltd.	82-1017	Do.
Media Videotek Corp	82-925	Do.
Mentor Exploration & Development Co. Ltd.	82-178	Do.
Meridian Oil N.L	82-397	Australia.
Merland Explorations Ltd	82-595	Canada.
Metal Box PLC	82-991	United Kingdom.
Metoil Resources Ltd	82-940	Canada.
Midland Energy Corp	82-1050	Do.
Migent Software Corp	82-868	Do.
Minerals and Resources Corp.	82-206	Bermuda.
Minerex Resources Ltd	82-946	Canada.
Mistral Resources Ltd	82-922	Do.
Monarch Petroleum N.L	82-339	Australia.
Mono Gold Mines, Inc	82-1029	Canada.
Monte Christo Resources	82-785	Do.
Murgold Resources Inc	82-786	Do.
N. B. U. Mines Ltd	82-511	Do.
N. R. D. Mining Ltd	82-358	Do.
National Australia Bank	82-1015	Australia.
Neomar Resources Ltd	82-382	Canada.
New Alster Energy Ltd	82-960	Do.
New Frontier Petroleum Corp.	82-341	Do.
New Goldcore Ventures Ltd.	82-832	Do.
Newfields Minerals Inc	82-1007	Do.
Newtec Industries Ltd	82-926	Do.
Nimslo International Ltd	82-650	Bermuda.
Nissan Motor Co., Ltd	82-207	Japan.
Noble Mines & Oils Ltd	82-509	Canada.
Noramex Minerals Inc	82-939	Do.
Noranda Mines Ltd	82-158	Do.
Nor-Quest Resources Ltd	82-374	Do.
North American Power Petroleums.	82-383	Do.
Northair Mines Ltd	82-305	Do.
Nothern Eagle Mines Ltd	82-892	Do.
Northern Energy Corp	82-764	Do.
Nowsco Well Service Ltd	82-261	Do.
Nuspar Resources Ltd	82-464	Do.
O.T. Industries Inc	82-574	Do.
Oakwood Petroleums Ltd	82-564	Do.
O'Brien Energy & Resources Ltd.	82-262	Do.
Ocelot Industries Inc	82-331	Do.
Offshore Oil N.L	82-981	Australia.
Onoda Cement Co., Ltd	82-1057	Japan.
Orbex Minerals Ltd	82-476	Canada.
Oscar Resources Ltd	82-847	Do.
Otter Exploration N.L	82-320	Australia.
Overseas Inns S.A	82-166	Luxembourg.
P. C. R. Industries Ltd	82-656	Canada.
Pacific Minesearch Ltd	82-947	Do.
Pan American Energy Corp	82-877	Do.
Pan Canadian Petroleum Ltd.	82-285	Do.
Paragon Resources Ltd	82-388	Do.
Parkside Petroleum Inc	82-483	Do.
Pelsart Resources N.L	82-484	Australia.
Permian Resource Ltd	82-953	Canada.
Petro Energy Ltd	82-836	Australia.
Petrogulf Resources Ltd	82-855	Do.
Petrox Energy & Minerals Corp.	82-796	Canada.
Philex Mining Ltd	82-136	Philippines.
Philip Morris Ltd	82-944	Australia.
Pilgrim Coal Corp	82-706	Canada.
Pinto Malartic Gold Mines Ltd.	82-915	Do.
Pioneer Metals Corp	82-1018	Do.
Pirates Gold Corp	82-1060	Do.
Pola Resources Ltd	82-760	Do.
Power Corp. of Canada	82-137	Do.
Praire Pacific Energy Corp	82-456	Do.
Preferred Resources Inc	82-906	Do.
President Brand Gold Mining Co., Ltd.	82-39	South Africa.
President Mines Ltd	82-959	Canada.
President Steyn Gold Mining Co., Ltd.	82-44	South Africa.
Quebec Explorers Corp., Ltd.	82-635	Canada.
Quebec Sturgeon River Mines Ltd.	82-186	Do.
Queen Margaret Gold Mines N.L.	82-414	Australia.
Questmont Mines Ltd	82-923	Canada.
Quinto Mining Corp	82-475	Do.
Racal Electronics P.L.C	82-481	United Kingdom.
Rainex Resources Ltd	82-963	Canada.
Rainier Energy Resources Inc.	82-560	Do.
Ramm Venture Corp	82-809	Do.
Rampart Resources Ltd	82-1058	Do.
Randfontein Estates Gold Mining Co.	82-267	South Africa.
Ravenroc Resources Ltd	82-493	Canada.
Raymac Oil Corp	82-602	Do.
Rayrock Resources Ltd	82-378	Do.
Realsearch International	82-1064	Do.
Reba Resources Ltd	82-977	Do.
Redwood Resources Inc	82-606	Do.
Reed Stenhouse Companies Ltd.	82-254	Do.
Reg Resources Corp	82-864	Do.
Rich Lode Gold Corp	82-876	Do.
Ridgecrest Resources Ltd	82-532	Do.
Rockspan Resources Ltd	82-863	Do.
Rococco Resources Ltd	82-715	Do.
Roddy Resources Ltd	82-893	Do.
Rodeo Resources Ltd	82-1061	Do.
Rogers Cablesystems Inc	82-335	Do.
Rothmans International P.L.C.	82-84	United Kingdom.
Royal Nedlloyd Group N.V	82-1056	Netherlands.
Rule Resources Ltd	82-841	Canada.
Ruskin Development Ltd	82-648	Do.
Rustenburg Platinum Holdings Ltd.	82-241	South Africa.
S.K.F	82-139	Sweden.
Sainsbury, J., Ltd. PLC	82-913	United Kingdom.
Samantha Exploration N.L	82-323	Australia.
Samson Exploration N.L	82-401	Do.
Santa Sarita Mining Co., Ltd.	82-338	Canada.
Santos Ltd	82-34	Australia.
Sanyo Electric Co., Ltd	82-264	Japan.
Sasol Ltd	82-631	South Africa.
Saturn Energy & Resources Ltd.	82-613	Canada.
Saxton Industries Ltd	82-790	Do.
Sceptre Resources Ltd	82-387	Do.
Scheer Energy Development Corp.	82-333	Do.
Scintilore Explorations Ltd	82-792	Do.
Scottie Gold Mines Ltd	82-351	Do.
Sears Holdings PLC	82-851	United Kingdom.
Seastar Resource Corp	82-963	Canada.
Senetek PLC	82-875	United Kingdom.
Sequoia Resources Ltd	82-1019	Canada.
Share Mines & Oils Ltd	82-508	Do.
Sharon Energy Ltd	82-530	Do.
Sheen Minerals Inc	82-896	Do.
Shelter Oil & Gas Ltd	82-601	Do.
Sherritt Gordon Mines Ltd	82-29	Do.
Shiloh Resources Ltd	82-978	Do.
Siemens Aktiengesellschaft	82-73	Germany.
Sierra Nevada Gold Ltd	82-894	Canada.
Skelly Resources Ltd	82-1000	Do.
So-Luminaire Systems Corp.	82-427	Do.
Sons of Gwalia, N.L	82-1039	Australia.
South Africa Land & Exploration Co., Ltd.	82-59	South Africa.
South Roodeport Main Reef Areas Ltd.	82-930	Do.
Southern Pacific Petroleum N.L.	82-353	Australia.
Southern Resources Ltd	82-817	Do.
Sothern Star Resources Ltd.	82-1043	Canada.
Southern Ventures N.L	82-880	Australia.
Southvaal Holdings Ltd	82-197	South Africa.
South-West Gold Corp	82-1044	Canada.
Spartan Capital Corp	82-160	Do.
Spirit Petroleum Corp	82-730	Do.
Spooner Mines and Oils Ltd.	82-112	Do.
St. Helena Gold Mines Ltd	82-232	South Africa.
Stallion Resources Ltd	82-807	Canada.
Stampede International Resources Ltd.	82-242	Do.
Starburst Energy Corp	82-775	Do.
Stateside Energy Corp	82-544	Do.
Stelco Inc	82-141	Do.
Stilfontein Gold Mining Co., Ltd.	82-301	South Africa.
Stralak Resources Ltd	82-976	Canada.
Strata Energy Corp	82-714	Do.
Stray Horse Resources Inc	82-474	Do.
Stryker Resources Ltd	82-883	Do.
Sulpetro Ltd	82-665	Do.
Sun God Resources Ltd	82-929	Do.
Sutton Resources Ltd	82-910	Do.
Svenska Cellulosa Aktiebolaget SCA.	82-763	Sweden.
Swan Resources Ltd	82-477	Australia.
Sydney Development Corp	82-641	Canada.
Taro-Vit Chemical Industries Ltd.	82-210	Israel.
Tate & Lyle PLC	82-905	United Kingdom.
Teeshin Resources Ltd	82-891	Canada.
Telefonos de Mexico S.A	82-332	Mexico.
Telstar Resource Corp	82-701	Canada.
Terra Mines Ltd	82-404	Do.
Terrex Resources N.L	82-646	Australia.
Teva Pharmaceutical Industries Ltd.	82-614	Israel.
Texcan Technology Corp	82-945	Canada.
Thorn EMI Ltd	82-373	United Kingdom.
Thrust Resources Inc	82-1009	Canada.
Tillicum Gold Mines Ltd	82-815	Do.
Timminco Ltd	82-106	Do.

Company	File No.	Country
Titan Resources Ltd	82-773	Do.
Titleist Petroleums Ltd	82-966	Do.
Torhsen Energy Corp	82-1001	Do.
Toronto Dominion Bank	82-142	Do.
Torrent Resources Ltd	82-381	Do.
Tournigan Mining Explorations.	82-328	Do.
Toyota Motor Co., Ltd	82-208	Japan.
Transcontinental Holdings Ltd.	82-950	Australia.
Transpacific Asbestos Inc	82-669	Canada.
Transvaal Consolidated Land & Exploration Co.	82-304	South Africa.
Trident Resources Inc	82-707	Canada.
Trinity Resources Ltd	82-610	Do.
Trojan Energy Corp	82-696	Do.
Troudor Resources Inc	82-806	Do.
Turner and Newall PLC	82-1011	United Kingdom.
Turner Energy & Resources Ltd.	82-659	Canada.
Tylox Resources Corp	82-1053	Do.
Ultramar PLC	82-871	United Kingdom.
Unisel Gold Mines Ltd	82-236	South Africa.
United Cambridge Mines Ltd.	82-746	Canada.
United Keno Hill Mines Ltd	82-61	Do.
United Leader Resources Inc.	82-577	Do.
United Rayore Gas Ltd	82-747	Do.
United Siscoe Mines Inc	82-194	Do.
Vaal Reefs Exploration and Mining Co., Ltd.	82-56	South Africa.
Valclair Resources	82-937	Canada.
Valhalla Energy Corp	82-960	Do.
Vanwinn Resources Corp	82-969	Do.
Velcro Industries N.V	82-145	Netherlands Antilles.
Venterpost Gold Mining Co., Ltd.	82-216	South Africa.
Ventora Resources Ltd	82-381	Canada.
Veronex Resources Ltd	82-364	Do.
Victoria Exploration N.L	82-322	Australia.
Viscount Resources Ltd	82-420	Canada.
Vlakfontein Gold Mining Co., Ltd.	82-217	South Africa.
Volvo	82-782	Sweden.
Vulcan Industrial Packaging Ltd.	82-300	Canada.
Waddy Lake Resources Inc	82-607	Do.
Walhalla Mining Co. N.L	82-1036	Australia.
Walhalla Resources Ltd	82-853	Do.
Wasmont Precious Metals Corp.	82-694	Canada.
Warrior Resources Ltd	82-363	Do.
Wartsila (OY) AB	82-933	Finland.
Welkom Gold Mining Co., Ltd.	82-57	South Africa.
West Rand Consolidated Mines Ltd.	82-314	Do.
Westate Resources Inc	82-992	Canada.
Westbank Resources Inc	82-1008	Do.
Western Atlenbee Oil & Gas Co., Ltd.	82-670	Do.
Western Areas Gold Mining Co., Ltd.	82-268	South Africa.
Western Deep Levels Ltd	82-58	Do.
Western Holdings Ltd	82-54	Do.
Western Pacific Energy Corp.	82-970	Canada.
Westfort Petroleums Ltd	82-306	Do.
Westlake Resources Inc	82-821	Do.
West-Mar Resources Ltd	82-751	Do.
Westwater Resources Ltd	82-1013	Do.
Willenbour Resources Ltd	82-63	Do.
Winkelhaak Mines Ltd	82-221	South Africa.
Woolworth Holdings PLC	82-968	United Kingdom.
Woolworths Ltd	82-870	Australia.
Wright Hargreaves Mines Ltd.	82-60	Canada.
Yellowknife Bear Resources Inc.	82-776	Do.
Zambia Copper Investments Ltd.	82-227	Bermuda.
Zanex Ltd	82-932	Australia.

[FR Doc. 85-21043 Filed 9-3-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23806; 70-7149]

North Holding Company; Proposed Acquisition of the Cleveland Electric Illuminating Company and the Toledo Edison Company

August 23, 1985.

North Holding Company ("North"), 1800 Huntington Building, Cleveland Ohio 44115, an Ohio corporation, has filed an application pursuant to sections 9(a)(2) and 10 of the Public Utility Holding Company Act of 1935 (the "Act"), requesting an order of the Commission approving its acquisition of all of the outstanding common stock of the Cleveland Electric Illuminating Company ("CEI"), and of the Toledo Edison Company ("TE").

North was incorporated under the laws of the State of Ohio on June 28, 1985. North was organized by CEI, an Ohio corporation, for the purpose of acquiring all of the issued and outstanding common stock, no par value, of CEI (the "CEI Common Stock"), and all of the issued and outstanding common stock, $5 par value, of TE (the "TE Common Stock"). North has organized two wholly owned subsidiaries (the "Merger Companies"), East Merger Company, an Ohio corportion ("East"), and West Merger Company, an Ohio corporation ("West"), for the purpose of merging with CEI and TE, respectively. North also intends to organize a service company, which will be an Ohio corporation and which will enter into system operational agreements concerning operations, construction, systems dispatch for CEI and TE, and such other matters as may be agreed upon between CEI, TE and North. North is not presently a holding company subject to the Act because it does not own or control or hold 10% of the outstanding voting securities of a "public utility company" within the meaning of section 2(a)(5) of the act. North does not intend to register as a holding company if the proposed transaction is consummated because it believes it will be entitled to an exemption under section 3(a)(1) of the Act since it and all of its public utility subsidiaries will be predominantly intrastate in character and will carry on their business substantially in a single State, Ohio, in which each of them is organized. North will file for such exemption immediately following the consummation of the proposed transactions pursuant to Rule 2 under the Act.

CEI was incorporated under the laws of the State of Ohio on September 29, 1892. It is engaged in the production, transmission, distribution, sale of electricity at retail and sale and purchase of electricity at wholesale, primarily in five counties of Northeast Ohio. CEI serves a population of approximately 1,850,000 persons.

TE was incorporated under the laws of the State of Ohio on July 11, 1901. It is engaged in the production, transmission, distribution, sale of electricity at retail and at wholesale and purchase of electricity at wholesale, in ten counties of Northeast Ohio. TE serves a population of approximately 750,000 persons.

CEI and TE have entered into an Agreement and Plan of Reorganization dated as of June 25, 1985 (the "Reorganization Agreement"). In accordance with the Organization Agreement and the agreements of merger to be entered into pursuant thereto (the "Merger agreements"), the holders of CEI Common Stock and the holders of TE Common Stock will be come holders of common stock of North. ("North Common Stock"), and North will become the sole holder of CEI Common Stock and TE Common Stock. CEI and TE will each continue to operate as an "electric utility company" within the meaning of section 2(a)(3) of the Act, and their electric utilities operations will represent the predominant part of the business of the North system. The Reorganization Agreement and the Merger Agreements provide that at the effective time (as defined below) (a) East will be merged into CEI, all of the issued and outstanding shares of CEI Common Stock equal to the aggregate number of shares of CEI Common stock issued and outstanding immediately prior to the Effective Time will be converted into 1.11 shares of North Common Stock, and (b) West will be merged into TE, all of the issued and outstanding shares of West will be converted into and become that number of shares of TE Common stock equal to the aggregate number of shares of TE Common Stock issued and outstanding immediately prior to the Effective Time and each share of TE Common Stock issued and outstanding at the effective Time will be converted into one share of North Common Stock. All shares of North Common Stock outstanding immediately prior to the Effective Time owned by CEI and TE will be cancelled. The Merger Agreements provide that all other outstanding securities of CEI and TE shall be unaffected and remain outstanding after the Effective Time. The "Effective Time" will be the time when the Merger Agreements and other documents required under Ohio law

shall have been duly filed with the office of the Secretary of State of Ohio.

The Merger Agreement also provides that at the Effective Time the holders of CEI Common Stock and the holders of TE Common Stock will cease to have any rights as shareowners of CEI and TE, respectively, except for dissenters' rights. Any record holder of CEI Common Stock or TE Common Stock as of October 4, 1985 (the "Record Date") whose shares are not voted in favor of the adoption and approval of the Reorganization Agreement and the Merger Agreement is entitled, if the transactions contemplated by the Reorganization Agreement and the Merger Agreements are consummated, to be paid the fair cash value of the shares held by him or her on the Record Date, provided, among other things, that the shareowner serves a written demand upon the issuer of such shares, not later than ten days after the date on which the vote on the Reorganization Agreement and the respective Merger Agreement was taken at the meeting of the shareowners. After the Effective Time Certificates representing CEI Common Stock and TE Common Stock as to which dissenters' rights have not been exercised, will be exchangeable for certificates for shares of North Common Stock.

The Reorganization Agreement and the Merger Agreements will be submitted to a vote of common shareowners at special meetings of shareowners of CEI and TE, respectively, after a solicitation of proxies made pursuant to Regulation 14A promulgated under the Securities Exchange Act of 1934, as amended. Pursuant to the Ohio General Corporation Law, the affirmative vote of the holders of 66⅔% of the outstanding shares of CEI Common Stock and TE Common stock, respectively, is required to approve and adopt the Reorganization Agreement and the respective Merger Agreements. Adoption of the Reorganization Agreement and the Merger Agreements by the holders of CEI Common Stock and the holders of TE Common Stock will also constitute approval by such holder of:

(i) The Article of Incorporation of North (including the authorized capital of North which will consist of 150,000,000 shares of common stock, without par value, and 5,000,000 shares of serial preferred stock, without par value, and the eilmination of any preemptive rights as to both the common stock and the serial preferred stock) that will be in effect as of the Effective Time; and

(ii) The Regulations of North (including a provision for the indemnification of any director or officer or any former director or officer of North against expenses, including attorney's fees, judgments, fine and amount paid in settlement, actually and reasonably incurred by him or her by reason of the fact that he or she is or was a director or officer of North in connection with any threatened, pending or completed action, suit or proceeding to the full extent and according to the procedures and requirements set forth in any applicable law as the same may be in effect from time to time) that will be in effect as of the Effective Time.

The Boards of Directors of CEI and TE approved the Reorganization Agreement and the transactions contemplated thereby on June 25, 1985. Prior to such approval, Morgan Stanley & Co. and Merrill Lynch Capital Markets, Merrill Lynch, Pierce, Fenner & Smith each delivered written opinions that the exchange ratios provided for in the Reorganization Agreement and the Merger Agreements are fair, from a financial point of view, to the shareowners of CEI Common Stock and TE Common Stock, respectively.

The Boards of Directors and managements of CEI and TE represent that the proposed transaction will better enable them to achieve more reliable service to customers at costs lower than would otherwise be the case and more favorable results for investors; that the consolidated companies will have increased financial stability and strength due to the pooling of their common stock equity; that the proposed transactions will enable CEI and TE to achieve savings and efficiencies by consolidating their management, manpower and technical expertise; and that the proposed transactions also will enable the consolidated companies to achieve operating savings by the increased coordination of the economic use of their facilities through the implementation of an equitable program of capacity rationalization, joint economic dispatch of electricity and the intergrated operation coordinated maintenance of generating facilities.

The fees, commissions and expenses to be paid or incurred by CEI, North and TE in connection with the proposed transaction, including the reorganization, merger, solicitation of proxies, registration under the Securities Act of 1933, as amended, and other related matters are estimated to be $3,672,266, which includes legal fees of $1,465,000. In the event the transactions are consummated investment bankers will be paid an additional $6,294,000.

The applicants state that no state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by September 19, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on North at the address specified above. Proof of service (by affidavit or, in case of attorney at law, by certificate) should be filed with the request. Any request for a hearing must identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be authorized.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-21039 Filed 9-3-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22357; File No. SR-MSE-85-5]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by Midwest Stock Exchange, Incorporated Relating to a Reduction in Order Exposure Time

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 20, 1985, the Midwest Stock Exchange, Inc. ("MSE"), filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the MSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSE proposed to reduce the time frame between the time a market order is entered into Midwest's Guaranteed Execution System (MAX) and the time it is automatically executed from 30 to 15 seconds ("order exposure time"). The 30 second time frame was established with

the implementation of the MAX System.[1] The MSE is proposing to amend its procedures on a one year pilot basis.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

It its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments is received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* The MSE's MAX system establishes the price at which a MAX market order will be executed at the time of order entry. The system, however, currently will not automatically execute the order until 30 seconds has elapsed. This allows the specialist time to expose the order to the market and obtain a better execution if available. Any changes to the best bid and offer during the order exposure time could cause the trade to print on the consolidated tape at a price outside the market. Reducing the order exposure time from 30 to 15 seconds will lessen the chance for a trade to be reported outside the market, but still allow time for the specialist to expose the order to the market.

(2) *Statutory Basis.* The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 in that it is designed to facilitate the prompt and accurate reporting of transactions on the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The MSE does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated approval pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rule and regulations thereunder applicable to a securities exchange, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission understands that MAX orders on the MSE will continue to be subject to all MSE rules governing the conduct of its auction market. In this regard, the Commission expects that MAX orders will be executed pursuant to the MSE's rules governing the priority of bids and offers on the floor (*e.g.*, MSE Article XX, Rule 17). The Commission, however, believes the proposed reduction of MAX's exposure period theoretically could diminish opportunity for MAX orders to interact with interest on the MSE floor. For this reason, the Commission believes that approval of the proposed rule change on a pilot basis is appropriate. In this regard, the Commission will be conducting discussions with the MSE during the course of the pilot to assess the effect of the 15 second exposure period.[2]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the MSE's reduction of order exposure time from 30 to 15 seconds will be implemented on a one year pilot basis, and is similar to the pilot program already implemented by the PSE for its SCOREX system. In addition, the Commission will continue to monitor the MSE pilot, in conjunction with its assessment of the PSE's pilot, in order to assess the appropriateness of a 15 second order exposure period.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the MSE. All submissions should refer to the file number in the caption above and should be submitted by September 25, 1985.

It is therefore ordered pursuant to section 19(b)(2) of the Act, that the proposed rule change above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 26, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-21040 Filed 9-3-85; 8:45 am]

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Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Incorporated

August 27, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

ICM Property Investors
Common Stock, $1.00 Par Value (File No. 7-8582)
Sunshine Mining Co.
Cumulative Redeemable Preferred (File No. 7-8583)
Universal Development Corporation
Depository Receipts (File No. 7-8584)
Foothill Group, Inc.

[1] *See* Securities Exchange Act Release No. 18742, 47 FR 22438, (May 24, 1982) (SR-MSE-82-5); and Securities Exchange Act. Release No. 19629, 48 FR 14105, (April 1, 1983) (MSE-83-3).

[2] Last year, the Pacific Stock Exchange, Inc. ("PSE") implemented a one year pilot to decrease the time during which a specialist may remove an order from its securities communication, order routing, and execution system ("SCOREX") for manual execution from a 30 second exposure time to 15 seconds. *See* Securities Exchange Act Release No. 2139, September 17, 1984; 49 FR 57199 (September 21, 1984.) The PSE stated that if a specialist elects to remove an order from the systems for manual execution, the specialist will be obligated to provide a price which is at least as good as the price assigned by the system at the time the order is removed. The Commission noted in its order that it would be conducting discussions with the PSE during the one year pilot program to assess the effect of the 15 second exposure period.

Class A Common Stock, No Par Value (File No. 7–8585)
Nord Resources Corp.
Common Stock, $0.01 Par Value (File No. 7–8586)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 18, 1985, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with The Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Folllowing this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–21041 Filed 9–3–85; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

August 27, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following security:

Staley Continental Inc.
Common Stock, $.01 Par Value (File No. 7–8587)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 18, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenace of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–21042 Filed 9–3–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–14694; 812–5887]

Allied Capital Corp. et al.; Application for an Order Granting Exemptions Permitting the Proposed Transactions

August 26, 1985.

Notice is hereby given that Allied Capital Corporation ("Allied"), 1625 Eye Street, NW., Washington, D.C. 20006, a registered, close-end, internally-managed investment company, Allied Advisory, Inc. ("Advisory"), a District of Columbia corporation wholly-owned by Allied, Allied Management Partners ("Management Partners") and Allied Venture Partnership ("Venture Fund"), both entities proposed to be organized as District of Columbia limited partnerships, and George C. Williams, David Gladstone, and Jonathan J. Ledecky ("Individual Applicants"), officers of Allied, (collectively all of the above referred to hereinafter as, "Applicants"), filed an application on July 2, 1984, and amendments thereto on June 4, July 12, and August 19, 1985, for an order of the Commission, pursuant to Sections 6(c) and 17(b) of the Investment Company Act of 1940 ("Act"), exempting Applicants from the provisions of sections 12(d)(1) and 17(a), and permitting, pursuant to Section 17(d) and Rule 17d–1 thereunder, to the extent necessary, the establishment of and participation by Applicants and certain other affiliates in a venture capital limited partnership. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the complete text of the applicable provisions.

Applicants state that Allied, originally organized in 1958 as a small business investment company ("SBIC"), is now a holding company over 95% of the assets of which consist of all of the outstanding capital stock of the following four subsidiaries, each of which is also registered under the Act as a closed-end management investment company: Allied Investment Corporation ("Investment"), licensed by the Small Business Administration ("SBA") as an SBIC under the Small Business Investment Company Act of 1958 ("SBI Act"); Allied Financial Corporation, licensed by the SBA as an SBIC under the SBI Act to operate under section 301(d) thereof as a company engaged primarily in making loans to qualified small business enterprises owned by disadvantaged persons (together with Investment, "SBIC Subsidiaries"); Allied Lending Corporation, a participating lender in the SBA's guaranteed lending program under section 7(a) of the SBI Act; and Allied Development Corporation, a recognized lender under the business and industrial loan program of the Farmers Home Administration.

Applicants represent that Allied's SBIC Subsidiaries are principally engaged in the business of making venture capital type investments, principally in the form of loans with equity features, in small business concerns as contemplated by and defined in the SBI Act. Applicants state that, as a matter of prudence, Allied's board of directors rarely approves a commitment of its resources in a single transaction of more than about $500,000 ("Prudential Limit") while transactions in which Allied becomes involved are increasingly larger than the Prudential Limit. As a result, the application indicates that Allied invites the participation of other venture capital institutional investors in any proposed investment transaction originated by it which is in excess of the Prudential Limit, and where Allied would be precluded from consummating such larger transaction unless outside participation were obtained; similarly, Allied is frequently invited to participate in venture capital transactions originated by others. Applicants state that the board of directors of Allied has concluded that the capital base limitation, as well as the limitations on its investment flexibility described in the application, can best be overcome through the organization of and institutional placement of participations in a venture capital limited partnership.

Applicants propose to organize the Venture Fund as a limited partnership. The general partner would be Management Partners, which would contribute 1% of the Venture Fund's capital; the limited partners would be institutions and other accredited investors who would contribute to the Venture Fund not less than about

$1,000,000 each and not more than $40,000,000 nor less than $30,000,000 in the aggregate. Applicants state that Management Partners, would also be organized as a limited partnership; its general partner would be Advisory, with a 50% participation in Management Partners' capital, income, gains and losses, and the limited partners would be the Individual Applicants with the other 50% participation in Management Partners' capital, income, gains and losses.

The application indicates that Advisory would also act as the Venture Fund's investment adviser and, as such, it would be paid quarterly an advisory fee equal to the sum of its expenses directly allocable to the Venture Fund plus the portion of its general expenses (net of fees received) equal to the ratio of the value of the Venture Fund's assets to the sum of the value of the consolidated assets of Allied and the value of the assets of the Venture Fund, but not in excess of 2.5% per annum, cumulatively, of the aggregate capital contributed to the Venture Fund. Applicants state that for Advisory to fund its proposed capital contribution to Management Partners so as to enable the latter to fund its proposed capital contribution to the Venture Fund, Allied would be required to invest from $51,515 (50% of 1% of $30,303,030) to $202,020 (50% of 1% of $40,404,040) of fresh capital into Advisory.

Applicants represent that the Venture Fund's partnership agreement will provide that all net investment income would be allocated and distributed to the partners in accordance with their capital contributions (99% to the limited partners and 1% to the general partners once the Venture Fund is fully capitalized); cash proceeds from the disposition of investments would be distributed in accordance with an order of priority that would permit the limited partners to recover their investment before any distribution of proceeds from the disposition of investments will be made to the general partner. Thereafter disposition proceeds would be distributed 80% to the limited partners and 20% to the general partner. Applicants further state that net gains from the disposition of investments in any year would be allocated to the accounts of the partners pro rata to their capital contributions to the extent that the capital account of any partner is, or as a result of that year's distributions would become, negative, and thereafter in the same proportions as are made that year's distributions. Any net realized losses would be allocated to the accounts of the partners pro rata to their capital contributions to the extent that the capital account of any partner is, after giving effect to that year's distributions, positive, and thereafter to the general partner.

Applicants state that three institutional shareholders of Allied (two of which are "affiliates" of Allied by reason of their, or their affiliates', holding more than 5% of Allied's outstanding shares) will each participate in the Venture Fund as limited partners. Applicants also state that a number of directors and officers of Allied including Individual Applicants will form a separate partnership ("Directors' Partnership") for the purpose of investing in the Venture Fund as a limited partner with an aggregate committed capital contribution of approximately $1,000,000. Applicants indicate that the Venture Fund will have an advisory committee composed of senior management personnel of the Venture Fund's institutional limited partners (excluding representatives of those which are also shareholders of Allied).

Applicants represent that the Venture Fund's investments will be essentially of the same nature as the investments made by Allied; furthermore, it is contemplated that the Venture Fund would in most cases co-participate in investments with Allied. Applicants also represent that the board of directors of Allied, which is identical in composition to the board of directors of Advisory, would have substantial discretion in the allocation of investment opportunities between Allied on the one hand and the Venture Fund on the other. Applicant proposes, however, that such discretion be constrained by the following rules: (i) The board of directors will determine in the first instance the extent to which Allied and the Venture Fund combined will participate in any investment opportunity originated by Allied and the extent to which participations therein will be offered to others, or to which Allied and the Venture Fund combined will participate in investment opportunities originated by others in which Allied is invited to participate; (ii) all investment opportunities which involve straight debt instruments only will be allocated exclusively to an Allied investment company subsidiary; (iii) in principle, any investment involving an equity feature, if undertaken, would be allocated to the Venture Fund and to Allied in equal shares; (iv) where the magnitude of the proposed investment is such that half of it would exceed Allied's then applicable Prudential Limit, a relatively larger portion of the investment may be allocated to the Venture Fund, up to its limit for exposure in a single risk (normally about $1,000,000, and in no event more than 5% of the Venture Fund's contributed capital); (v) in those few situations where the current return component of the investment is relatively low or nonexistent and the equity component is relatively greater, the board of directors may give consideration to Allied's yield requirements and, based on such consideration, allocate a relatively greater share, or all, of such investment to the Venture Fund and a relatively smaller share, or none, to Allied. Investments allocated exclusively to the Venture Fund would not, however, exceed approximately 20% of the Venture Fund's assets; (vi) conversely, in those few situations where the current return component of the investment is relatively high and the equity component is relatively less, the board of directors may give consideration to the principal investment objective of the Venture Fund to achieve long-term capital appreciation and, based on such consideration, allocate a relatively greater share, or all, of the investment to Allied; (vii) situations may arise, although they are not expected to arise frequently, in which the issuer of the investment does not come within the technical SBI Act definition of a small business concern. In that event, the investment, if considered desirable, would be allocated exclusively to the Venture Fund. Any investment of this type would be subject to the 20% limit referred to in (v); (viii) once the Venture Fund has become fully invested, no investments will any longer be allocated to the Venture Fund; (ix) there will not be allocated to the Venture Fund any participation in an investment in an entity in which Allied, but not the Venture Fund, has previously invested without the approval of the Venture Fund's advisory committee; (x) the basis of participation, including timing and price, on which the Venture Fund participates in the proposed investment shall be identical to the basis of participation of Allied. For this purpose, the payment to Advisory by any participant in the transaction other than the Venture Fund, Allied or any subsidiary of Allied of any reasonable fee shall not be considered as differentiating the basis of the Partnership's participation from that of Allied; (xi) Allied and the Venture Fund will exercise any warrants, conversion privilege, or other rights to acquire equity securities of an issuer, or affiliate of an issuer, which were acquired by

both Allied and the Venture Fund in a transaction in which they both participated, only at the same time and in amounts proportionate to their respective holdings of such rights; (xii) Allied and the Venture Fund will see, exchange, or otherwise dispose of an interest in any security of a class held by both Allied and the Venture Fund as a result of a transaction in which they both participated only at the same time and for the same unit consideration and in amounts proportionate to their respective holdings of such securities, unless at the time of sale there exists a public trading market in securities of such class and the sale by Allied or the Venture Fund is made in such market.

Applicants represent that any decision to allocate any equity-type investment opportunity between Allied and the Venture Fund otherwise than in equal shares, to the extent permitted by the foregoing rules, or to make any disposition of any security held by both, would be made by a majority of Allied's board of directors, including a majority of Allied's directors who have no personal interest in the Venture Fund. Applicants further represent that the board of directors would, *inter alia*, record any such decision in its minutes and would preserve in its records, for such periods as records are required to be maintained under section 31(a) of the Act, the basis on which such decision was made.

Applicants state that the Management Partners and the Venture Fund would be considered to be investment companies for purposes of section 12(d)(1) of the Act; therefore, the acquisition by Allied Advisory of its general partnership interest in Management Partners and Management Partners' acquisition of its general partnership interest in the Venture Fund would violate section 12(d)(1) of the Act. Accordingly, Applicants seek an exemption from that Section, pursuant to section 6(c) of the Act, to permit Allied to invest not more than $202,020 in the common shares of Advisory; Advisory to invest such amount in the general partnership interest of Management Partners; and Management Partners to invest no more than $404,040 in the general partnership interest of the Venture Fund.

Applicants have also requested relief, pursuant to section 17(b) of the Act, from the provisions of section 17(a) to permit Allied's investment in Advisory and Advisory's investment in Management Partners. Moreover, Applicants have sought approval under section 17(d) of the Act and Rule 17d–1 thereunder to permit certain joint transactions, including the advisory agreement between Advisory and the Venture Fund, the investments by the Individual Applicants in Management Partners, the investment by the Directors' Partnership in the Venture Fund, the investments by Allied affiliates as limited partners in the Venture Fund, and the co-investments by Allied and the Venture Fund.

Applicants submit that under the terms and conditions proposed it is appropriate to grant the requested relief to permit the creation and operation of the Venture Fund as described in the application. Applicants further submit that the granting of the requested exemptions will benefit shareholders because, in light of the profit potential for Allied compared with the small and limited risk to which it would be exposed, the proposed program, including the expense sharing arrangements in Advisory and the profit allocation to Management Partners, would be highly advantageous to those shareholders. Applicants state that Allied's exposure would be limited to its capital contribution or a maximum of $202,020 out of Allied's consolidated assets of approximately $56,592,000. Applicants further assert that since Management Partners will share in certain profits of the Venture Fund disproportionately to its capital contribution and Advisory would receive 50% of such profits, Allied's return on its small investment could be very substantial.

Applicants state that by permitting the Individual Applicants to purchase a 50% limited partner interest in Management Partners, on a basis exactly equal, in monetary terms, to the investment made by Advisory, the controlled company of Allied, the Venture Fund would permit them to share to the extent of 10% in the realized capital gains of the Venture Fund. Applicants concede that, because of their potential participation, through Management Partners, in gains achieved on the Venture Fund's investments, Individual Applicants may be subject to potential conflicts of interest. Applicants contend, however, that the potential for conflicts of interest will be mitigated by the following conditions: (i) Allied will undertake not to authorize or award any stock options beyond those authorized under its presently effective stock option plan; (ii) Applicants undertake that at least annually, Allied's board of directors will review the interest in the equity of Allied, including shareholdings and holdings of theretofore issued stock options, of those of its executives who participate in the profits of the Venture Fund, with a view to assuring, through the issuance of additional stock options, that the executives' interest in Allied is commensurate, to the maximum possible extent, with their interest in the Venture Fund. Finally, Applicants assert that any disproportionate allocation of investment opportunities and any disposition of investments must be approved by Allied directors who have no interest in the Venture Fund.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 16, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–21071 Filed 9–3–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–23805; 70–7120]

Metropolitan Edison Co.; Supplemental Notice of Proposal To Finance Pollution Control Facilities

August 26, 1985.

Metropolitan Edison Company, ("Met-ED"), 2800 Pottsville Pike, Muhlenberg Township, Pennsylvania 19605, a subsidiary of General Public Utilities ("GPU"), a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 6(a), 7, 9(a) and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 44 and 50 (a)(5) thereunder.

On July 31, 1985 a notice ("HCAR No. 23778") was issued by the Commission in this proceeding stating that Met-Ed proposes to issue an aggregate of up to $35,000,000 principal amount of its first mortgage bonds ("New Bonds") to the Northampton County Industrial Development Authority ("Authority"). The New Bonds will be delivered to the Authority in satisfaction of Met-Ed's obligation to pay the purchase price of certain pollution control facilities

presently being constructed in connection with the Portland electric generating station.

It was stated by Met-Ed that the Authority Bonds would have a term of 30 years. Met-Ed has now amended this term to not less than 10 nor more than 30 years, subject to earlier redemption, retirement, or repurchase upon the occurrence of certain events. The Authority Bonds will be subject to optional redemption by the Authority, at the direction of Met-Ed, in whole or in part. If the Authority Bonds have a term of 10 years, such optional redemption may occur on and after September 1, 1990. If the Authority Bonds have a term of 30 years, such optional redemption may occur on and after September 1, 1995.

The amended application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by September 17, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-21072 Filed 9-3-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22364; File No. SR-MSE-85-8]

Self-Regulatory Organizations; Proposed Rule Change By Midwest Stock Exchange, Inc., Relating to the Procedure for Bids and Offers on "Issued" Basis

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 8, 1985, the Midwest Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Article XX, Rule 10 of the Rules of the Midwest Stock Exchange is hereby amended as follows: Additions italicized—[Deletions Bracketed]

Procedure for Bids and Offers on "Issued" Basis

Rule 10. Bids and offers in stocks admitted to dealings on an "issued" basis shall be made only as follows, and may be made simultaneously as essentially different propositions, but when made without stated conditions shall be considered to be "regular way":

"Cash"

(a) "Cash" i.e., for delivery on the day of the contract;

"Regular Way"

(b) "Regular way" i.e., for delivery on the fifth full business day following the day of the contact;

"Seller's Option"

(c) "Seller's option," i.e., for delivery within the time specified in the option, which time shall not be less than six (*6*) full business days nor more than *sixty (60)* [30] days following the [date] *day* of the contract; except that the Exchange may provide otherwise in specific issues of stocks or classes of stocks[:]. [and except that],

"Next Day"

(d) *"Next Day," i.e., for delivery on the next business day following the day of the contract. For purposes hereof, "next day" may also include deliveries within the time specified in the contract which time may include either the second, third or fourth full business day following the day of the contract.*

O[o]n the second, third, fourth and fifth full business days preceding the final day for subscription, bids and offers in rights to subscribe shall be made only "next day," i.e., for delivery on the next business day following the [date] *day* of the contract and shall be made only for "cash" on the day preceding the final day for subscription except as otherwise designated by the Committee on Floor Procedure[:].

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to codify the current MSE policy of allowing trades to be effected on the MSE floor for settlement periods other than "cash", "regular way" or "seller's option".

The current rule 10 provides that contracts resulting from transactions effected on the MSE floor may be settled in one of three ways. First, the transaction may be settled for "cash", which indicates that delivery occurs on the day of the contract. Second, the transaction may be settled "regular way," which indicates that delivery will occur on the fifth full business day following the day of the contract. Third, the transaction may be settled "seller's option," which indicates that delivery will occur within the time period specified in the option, which time shall be no less than 6 full business days nor more than 30 days following the day of the contract.

Rule 10 also contains an exception providing for "next day" settlement (for delivery on the day following the day of the contract) for contracts in rights on the second, third, fourth and fifth full business days preceding the final day for subscription, and for "cash" settlement on the day immediately preceding the final day for subscription.

The proposed changes are the result of requests made to the MSE by several members and member organizations, to provide greater flexibility for trades with settlement periods other than the traditional periods cited in existing Rule 10.

Particular interest has been expressed in "next day" settlement and settlement occuring on the second, third and fourth business days following the day of the contract in respect to "Issued" securities and not merely subscription rights. These same members and member organizations believe that additional settlement periods are becoming more useful in furthering the investment objectives of certain of their customers. In the past MSE's policy was to allow

these type of trades on an exception basis only.

With increased emphasis on sophisticated trading programs conducted by certain institutional investors, and the fact that other exchanges currently allow or are proposing to allow additional settlement periods, the MSE believes that it is appropriate at this time to provide in its rules additional time periods during which trades effected on the MSE may settle as a matter of course.

In addition, the proposed rule changes would expand the permissible "seller's option" period from 30 days to 60 days. This expanded period will also provide members and member organizations with greater flexibility in developing their investment strategies and is consistent with other exchanges' "seller's option" rules.

The proposed rule change is consistent with Section 6 of the Securities Exchange Act of 1934 in that it helps remove an impediment to a free and open market and will also "foster cooperation and coordination with persons engaged in settling and facilitating transactions in securities."

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that the proposed rule change will impose any burdens on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve the proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 25, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 28, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-21073 Filed 9-3-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22368; File No. SR-MSRB-85-16]

Self-Regulatory Organizations; Proposed Rule Change by the Municipal Securities Rulemaking Board; Relating to Membership on the Board

The Municipal Securities Rulemaking Board on August 16, 1985, filed with the Securities and Exchange Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

A. The Municipal Securities Rulemaking Board (the "Board") is filing amendments to rule A-3 relating to membership on the Board (hereafter referred to as the "proposed rule change"), as follows: *

Rule A-3. Membership on the Board

(a) Through (b) No change.

(c) Nomination and Election of Members.

(i) Members shall be nominated and elected in accordance with the procedures specified by this rule. All members of the Board shall be elected for terms of three years, so that the terms of office of one-third of the whole Board shall expire each year. The terms of office of all members of the Board shall commence on October 1 of the year in which elected and shall terminate on September 30 of the year in which their terms expire. No member of the Board [, other than a public representative elected to fill a vacancy on the Board who has served for less than 18 months,] may succeed himself in office and no broker-dealer representative or bank representative may be succeeded in office by any person associated with the municipal securities broker or municipal securities dealer with which such member was associated at the expiration of his term.

(ii) through (x) No change.

(d) No change.

(e) Vacancies. Vacancies on the Board shall be filled by vote of the members of the Board, subject to the Commission's power of approval referred to in paragraph (c) of this rule with respect to public representatives. [Except as provided in subparagraph (c)(i) of this rule,] Any person so elected to fill a vacancy shall serve for the term, or any unexpired portion of the term, for which such person's predecessor was elected. For purposes of this rule, the term "vacancies on the Board" shall include any vacancy resulting from the resignation of any person duly elected to the Board prior to the commencement of his or her term.

(f) No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The 15 initial members of the Board were appointed by the Securities and Exchange Commission, pursuant to section 15B(b)(1) of the Act, for two-year terms ending September 4, 1977. In 1977, pursuant to a Congressional mandate to establish procedures for the nomination and election of future members, the Board adopted rule A-3 which provided, in part, that five of the initial Board members were to serve a total of three

* [Brackets] indicate deletions.

years and five others were to serve a total of four years. With respect to the nomination of new members, rule A–3 stated that members of the Board shall be elected for terms of three years and that no member of the Board may succeed himself in office. In 1982, the Board, with Commission approval, amended rule A–3 to provide an exception from this provision for public members filling a vacancy on the Board who have served for less than eighteen months.

The Board continues to believe, as it did in 1982, that the familiarization period for public members can be a lengthy one before such members are sufficiently familiar with the regulatory process and the issues which the Board must address. With three years of experience with the current provisions of rule A–3, however, the Board now believes that other factors weigh against the retention of the reelection provision. The Board is concerned that any member who serves for longer than a three year term may be viewed as having more knowledge and experience in Board matters than the other members. While this may not, in fact, be true, the Board believes that even an appearance of one Board member having a special influence over Board deliberations may upset the balance on the Board prescribed in Section 15B of the Act and undermine the collegiality of the Board. Moreover, the Board believes it may not reasonably expect any Board member to commit the personal and professional time and resources necessary to participate actively in the Board's rulemaking process for over a three year period. Since public members are not even associated with the municipal securities industry, an expectation that such individual should devote additional time to Board activities appears to be inappropriate. Thus, the Board has concluded that this reelection provision should be deleted.

(b) The Board has adopted the proposed rule change pursuant to sections 15B(b)(2)(I) and 15B(b)(2)(B) of the Securities Exchange Act of 1934, as amended ("Exchange Act"). Section 15B(b)(2)(I) establishes the Board's general authority to adopt rules relating to the operation and administration of the Board. Section 15B(b)(2)(B) of the Exchange Act authorizes the Board to establish fair procedures for the nomination and election of members of the Board.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not affect the conduct of business by any broker, dealer, or municipal securities dealer. The Board, therefore, believes that the proposed rule change would not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Board has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 25, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

August 28, 1985.

[FR Doc. 85–21074 Filed 9–3–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–22361; File No. SR–OCC–85–14]

Self-Regulatory Organizations; Options Clearing Corp.; Proposed Rule Change

The Options Clearing Corporation ("OCC") on August 22, 1985, submitted a proposed rule change to the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") to authorize OCC to issue, clear and settle standardized options on the European Currency Unit ("ECU"),[1] which have been proposed for trading by two securities exchanges.[2] The Commission is publishing this notice to solicit public comment on the proposal.

OCC's proposal would make several amendments to OCC By-Law Article XV to accommodate ECU options. Several definitions in Section 1 would be amended. Specifically, the term "foreign currency" now would include the ECU. ECUs would be added to the list of underlying foreign currencies for purposes of calculating premiums. Belgium would be designated the "country of origin" for ECUs. The definition of "foreign government restrictions" would be amended to include restrictions imposed by the European Economic Community. Finally, the "unit of trading" for ECU options would be set at 62,500 ECUs.

OCC By-Law Article XV, section 4 authorizing OCC adjustments to the terms of OCC foreign currency options in extraordinary events, would be amended to enable OCC to adjust the terms of ECU options if the monetary authorities of the European Economic Community issue a new currency to replace the ECU, or if those authorities officially alter the ECU exchange rate or characteristics. The proposal states further that OCC will adjust ECU options terms only in exceptional cases when OCC's Securities Committee determines that fairness to holders and writers of ECU options requires it. OCC will not adjust ECU options to reflect periodic adjustments to the weight or identity of the ECU's component currencies.[3]

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[1] The ECU is the monetary unit of the European Monetary System, representing a weighted average of the currencies of specified members of the European Economic Community. OCC's proposal would adopt this definition in OCC By-Law Article XV, Section 1.

[2] *See* File Nos. SR–PHLX–85–10 and SR–PSE–85–16, proposing to trade ECU options on the Philadelphia Stock Exchange and the Pacific Stock Exchange, respectively.

[3] The European Economic Community's monetary authorities review the ECU's composition every five years or more frequently if there is a particularly

Continued

OCC's proposal also would add an Interpretation and Policy to OCC's By-Law Article XV, section 4. That Interpretation and Policy would state that OCC normally will not adjust the terms of any foreign currency option in response to devaluations or revaluations of the underlying foreign currency. OCC represents in its filing that the proposed Interpretation and Policy incorporates a long-standing policy which already is included in OCC's foreign currency options disclosure documents.

Finally, OCC's proposal states that ECU option exercises would be settled like other foreign currency option exercises, with foreign currency deliveries generally in the country of origin. Thus, because the proposal designates Belgium as the country of origin for the ECU, OCC under OCC Rule 1606 will deliver ECUs (for settlement of ECU option exercises) to the Receiving Clearing Member's bank in Belgium, with deliveries only on days Belgian banks are open for business. Alternatively, the Receiving Clearing Member could establish a "multi-currency account" in another country in accordance with OCC Rule 1607.

OCC believes that the proposal is consistent with the Act in general, and with Section 17A of the Act in particular, because it facilitates the prompt and accurate clearance and settlement of ECU options. OCC states that the proposal does so by applying to ECU options substantially the same clearing system and rules currently in use by OCC for other foreign currency options. That system, in OCC's view, already has been proven safe and efficient.

OCC requested accelerated approval of its proposal to the extent necessary to allow OCC to issue, clear and settle ECU options at the latest by the time the Commission approves any exchange proposal to trade ECU options. OCC believes that accelerated approval would be justified because the proposal merely would implement any Commission approved program for trading ECU options, applying to ECU options OCC's existing clearance and settlement procedures.

Copies of all documents relating to the proposal, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, may be inspected and copied at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC and at OCC's principal office.

large movement in a component currency, or if there is a change in European Economic Community membership.

To assist the Commission in determining whether to approve the proposal or to institute disapproval proceedings, the Commission invites public comment on the proposal. Comments should refer to File No. SR-OCC-85-14. Please file six copies of comments with the Secretary of the Commission, 450 Fifth Street, NW., Washington, DC 20549, by September 25, 1985.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: August 27, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-21078 Filed 9-3-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22360; File Nos. SR-PCC-85-03 and SR-PSDTC-85-04]

Self-Regulatory Organizations; Pacific Clearing Corp. and Pacific Securities Depository Trust Co.; Order Approving Proposed Rule Change

Pacific Clearing Corporation ("PCC") and Pacific Securities Depository Trust Company ("PSDTC") (together, "PCC/PSDTC") on June 3, 1985, submitted proposed rule changes to the Commission under section 19(b)(1) of the Securities Exchange Act of 1934. Amendments to the proposals were filed on July 2, 1985. Notice of the proposal was published in the **Federal Register** on July 23, 1985 (50 FR 30039). The Commission received no public comment on the proposal. This Order approves the proposal.

PCC/PSDTC's proposed rule changes, as amended, require bank participants to provide PCC/PSDTC with quarterly financial statements already filed with the banks' respective state or federal banking authorities.[1] PCC/PSDTC currently require financial reports from broker-dealer participants, but not bank participants. Under the proposals, bank participants will be required to file with PCC/PSDTC quarterly balance sheets, income statements and statements of changes in equity capital.[2]

PCC/PSDTC believe that the proposals are consistent with Section 17A of the Act because they would enable PCC/PSDTC to improve their monitoring processes and therefore would facilitate PCC/PSDTC's safeguarding of securities and funds. More specifically, PCC/PSDTC believe that requiring bank participants to submit quarterly financial reports will enable PCC/PSDTC to improve their evaluation of the financial risks faced by PCC/PSDTC and their participants.

For the following reasons, the Commission believes that the proposals are consistent with the Act and should be approved. The Commission believes that clearing agencies must gain as much information as possible, consistent with sections 17A(b)(3)(F) and 17A(b)(4)(B) of the Act, about the financial and operational status of each applicant and participant, including information concerning business activities outside the clearing agency environment and changes in business mix.

One way clearing agencies can improve their applicant evaluation and participant monitoring programs is by enhancing their information collection mechanisms. Indeed, some clearing agencies have taken important steps in this direction. For example, the National Securities Clearing Corporation ("NSCC") and PCC have adopted, among other things, extensive "Standards of Financial Responsiblity and Operational Capability" (the "Standards"), which essentially set out the clearing agencies' membership qualification guidelines.[3] The clearing agencies have tailored the Standards to fit their respective systems, participant communities and information disclosure concepts. While the Standards generally require information disclosure on an exception basis, they also require some periodic disclosure of specific information. The Commission recognizes that clearing agency use of both information collection methods help to ensure against unreasonable financial exposure from participant default. Those methods, however, must be fair and narrowly focused. Moreover, they must not impose on applicants and

[1] Because PCC/PSDTC bank participants already prepare these reports and file them with appropriate state or federal regulatory authorities, PCC/PSDTC believe that the submission of these reports to PCC/PSDTC would not impose any significant additional regulatory or administrative burdens on bank participants.

[2] PCC/PSDTC are authorized to require participants to provide information relating to their financial condition under PCC Rule II, Section 4(b); PCC Rule XIII, Section 2; PSDTC Rule 2, Section 4(b); and PSDTC Rule 10, Section 2. These provisions also generally require PCC/PSDTC to hold that information in the same degree of confidence as may be required by law or the rules and regulations of the appropriate regulatory body having jurisdiction over PCC/PSDTC or the member or applicant.

[3] *See* File Nos. SR-NSCC-82-5 and 82-13 (approved respectively in Securities Exchange Act Release Nos. 18744 (May 17, 1982), 47 FR 22265 (May 21, 1982) and 19191 (October 29, 1982), 47 FR 50597 (November 8, 1982)); and SR-PCC-82-7 (approved in Securities Exchange Act Release No. 20286 (October 14, 1983), 48 FR 48732 (October 20, 1983)).

participants unnecessary or unreasonable reporting burdens.[4]

The Commission agrees with PCC/PSDTC that the proposals meet these tests. They are fair because all bank participants would be required to file periodic financial reports. Indeed, now all PCC/PSDTC participants will be required to file appropriate financial reports. The proposals are narrowly focused because they specifically and unambiguously identify each item that must be disclosed and reported to PCC/PSDTC. Finally, the proposals do not create unreasonable or unnecessary reporting burdens. The proposals merely require bank participants to forward to PCC/PSDTC copies of information already compiled and prepared to comply with existing state and federal bank regulatory requirements. Yet, without the proposals, PCC/PSDTC would be unable to obtain the reported information.

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of Section 17A of the Act in that the proposal is designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds in PCC/PSDTC's custody or control or for which they are resonsible.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that PCC/PSDTC's proposed rule changes (SR-PCC-85-3 and SR-PSDTC-85-4) be, and they hereby are, approved.

For the Commission, by the Division of Market Regulations pursuant to delegated authority.

Dated: August 27, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-21075 Filed 9-3-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22365; File No. SR-PSE-85-22]

Self-Regulatory Organizations; Proposed Rule Change by the Pacific Stock Exchange Inc., Relating to Member Organizations' Fidelity Coverage

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 19, 1985, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Rules of the Board of Governors of the Exchange currently require all PSE member firms to maintain brokers' blanket bonds and fidelity bonds which provide specified dollar amounts of coverage for their respective partners, officers and employees. The Exchange is proposing to amend its bonding requirements by adopting new sections 7 and 8 of PSE Rule IX and rescinding the existing language of those sections.

The proposed new sections 7 and 8 of Exchange Rule IX would: (i) eliminate the Exchange's existing bonding requirements with respect to organizations which do not do business with the public or clear transactions for other members, and which are not subject to the bonding requirements of another self-regulatory organization; (ii) eliminate the separate categories of "brokers' blanket bond" and "fidelity bond" and require PSE member organizations to maintain fidelity bond coverage only; (iii) require that fidelity bond coverage extend to limited partners who are also employees, to outside organizations which provide electronic data processing services and to the handling of United States Government securities in bearer form; and (iv) revise the schedule of required minimum coverage amounts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The majority of PSE member organizations are also members of one or more other self-regulatory organizations, and thus are also subject to those organizations' respective bond coverage requirements. The proposed amendment of PSE Rule IX, sections 7 and 8, will exempt from the Exchange's bonding requirements a member organization which belongs to another self-regulatory organization which has been designated by the Commission as the member's examining authority. This exemption will relieve such member organizations from possible duplicative costs and administrative burdens. The bonding requirements would also not be applicable to member organizations which neither transact business with the public nor clear transactions for other Exchange members or member organizations. The PSE does not believe that it is necessary to require such organizations to be covered by fidelity bonds. Furthermore, other national securities exchanges generally do not require members with similarly limited business activities to maintain fidelity bond coverage.

The other proposed amendments to Exchange Rule IX, sections 7 and 8, with respect to the nature and amounts of required coverage, are consistent with the rules and practices of other self-regulatory organizations.

The Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act, in that it is intended to prevent fraudulent and manipulative acts and practices, and to protect investors and the public interest, and is not designed to permit unfair discrimination between brokers or dealers who are members of the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will have any effect on competition which is not necessary or appropriate in furtherance of the Act.

(C) Self-Regulatory Organization's Statements on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received by the Exchange.

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[4] The Commission encourages those clearing agencies that have not yet improved their applicant evaluation and participant monitoring programs to evaluate the effectiveness of those programs and to file with the Commission appropriate rule proposals under 19(b) of the Act.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if its finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 25, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 28, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-21077 Filed 9-3-85; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

August 28, 1985.

The above named national securities exchange has filed application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Southwest Airlines Company
Common Stock, $1.00 Par Value (File No. 7-8588)

Archer-Daniels-Midland Company
Common Stock, No Par Value (File No. 7-8589)

Harris Corporation
Common Stock, $1.00 Par Value (File No. 7-8590)

GCA Corporation
Common Stock, $1.625 Par Value (File No. 7-8591)

Computervision Corporation
Common Stock, $0.05 Par Value (File No. 7-8592)

Hitachi, Ltd.
American Depositary Receipts (File No. 7-8593)

First Boston, Inc.
Common Stock, $1.2/3 Par Value (File No. 7-8594)

Freeport MacMoran Gold Company
Common Stock, $0.10 Par Value (File No. 7-8595)

Giant Yellowknife Mines
Common Stock, No Par Value (File No. 7-8596)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 19, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-21076 Filed 9-3-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Waldo County, ME

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway and cargo port facility on Sears Island in Waldo County, Maine. A two-lane highway connecting US Route 1, in the Town of Searsport, to Sears Island is a part of the overall project.

FOR FURTHER INFORMATION CONTACT: William D. Richardson, Division Administrator, Federal Highway Administration, Room 614, Edmund S. Muskie Federal Building, 40 Western Avenue, Augusta, Maine 04330, Telephone (207) 622-8487.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration in cooperation with the Maine Department of Transportation will prepare an environmental impact statement (EIS) for a proposed project to construct a marine dry cargo terminal on the west shore of Sears Island, Town of Searsport, Maine. An Environmental Assessment has previously been prepared for the project. The project would include a marginal wharf up to 420,000 square feet (9.6 acres) with berthing for up to two ships, plus both highway and rail facilities. Shore support facilities on the island will encompass approximately 40 acres and consist of: on-site primary roads, parking areas, an administrative and maintenance building and on-site water and sewer systems.

An integral part of this project, approximately 2.3 miles of highway would be built from the intersection of Island Road and U.S. Route 1 proceeding south across a gravel bar connecting Kidder Point with the northern tip of Sears Island and terminating at the cargo terminal site. Accompanying the access highway would be a railroad spur. Construction of the road and railway access to the cargo terminal will require that a causeway (approximately 1,200 linear feet) be built across the gravel bar connecting the island with the mainland. The construction of the causeway would permit uninterrupted access by road to the island; present

access by road is restricted to periods of mid to low tide when the gravel bar is exposed.

Alternatives considered include: (1) Taking no action; (2) Alternative off-island sites; (3) offshore pier with northern access; (4) offshore pier with central access; and (5) a marginal wharf.

A formal scoping meeting will be held at a time and place to be determined later.

Comments from Federal, State, and local agencies will be solicited during the early coordination process. Public notice will be given of the time and place of any public information meetings to be held in conjunction with the project. The draft EIS will be made available for public and agency review and comment. An opportunity will be provided for a public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: August 26, 1985.

William D. Richardson,

Division Administrator, Augusta, Maine.

[FR Doc. 85-21010 Filed 9-3-85; 8:45 am]

BILLING CODE 4910-22-M

[Docket 38978]

Braniff International Airways Employee Protection Program Investigation; Second Prehearing Conference

Notice is hereby given that a second prehearing conference in the above-entitled matter is assigned to be held on September 26, 1985, at 10:00 a.m. (local time) in Room 5332, Nassif Building, 400 7th Street, SW., Washington, D.C. 20590, before the undersigned administrative law judge.

Dated at Washington, D.C., August 29, 1985.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 85-21087 Filed 9-3-85; 8:45 am]

BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

NHTSA Rulemaking, Research and Enforcement Programs; Meeting to Inform Public and Automobile Industry

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice.

SUMMARY: This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's rulemaking, research and enforcement programs.

DATES: The agency's regular, quarterly public meeting relating to the agency's rulemaking, research and enforcement programs will be held on October 16, 1985, beginning at 10:30 a.m. Questions relating to the agency's rulemaking, research, and enforcement programs, must be submitted in writing by October 1, 1985. If sufficient time is available, questions received after the October 1, date may be answered at the meeting. The individual, group or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by October 1, 1985, and the issues to be discussed will be mailed to interested persons on October 9, 1985, and will be available at the meeting.

ADDRESS: Questions for the October 16, meeting relating to the agency's rulemaking, research, and enforcement programs should be submitted to Barry Felrice, Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street, SW., Washington, DC 20590. The public meeting will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, MI.

SUPPLEMENTARY INFORMATION: NHTSA will hold its regular, quarterly meeting to answer questions from the public and industry regarding the agency's rulemaking, research, and enforcement programs on October 16, 1985. The meeting will begin at 10:30 a.m., and will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, MI. The purpose of the meeting is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature. A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, DC within four weeks after the meeting. Copies of the transcript will then be available at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon request to NHTSA Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, DC 20590.

Issued on August 29, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85-21088 Filed 9-3-85; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Senior Executive Service; Performance Review Board

ACTION: This notice lists the membership of the Office of the Secretary Performance Review Board (PRB), superseding the list published in 49 FR 29893, July 24, 1984, in accordance with 5 U.S.C. 4313(c)(4).

Scope: This notice applies to all components within the Office of the Secretary, except the Legal Division.

Purpose: The purpose of the Board is to review performance appraisals, ratings, recommendations for performance awards, and other personnel actions, and to make recommendations to the appointing authority, who is the Deputy Secretary or his designee.

Composition of PRB: Each session of the Performance Review Board will be attended by the Chairperson or his designee and at least two of the members listed below. The Board will be composed of more than 50 percent career appointees in cases involving the appraisal of an SES career appointee. The names and titles of the PRB members are as follows:

Chairperson, John F. W. Rogers, Assistant Secretary (Management)
Paul Bateman, Deputy Treasurer of the United States
George N. Carlson, Director, Office of Tax Analysis
Francis X. Cavanaugh, Director, Office of Government Finance and Market Analysis
Paul H. Cooksey, Deputy Assistant Secretary (Administration)
Robert A. Cornell, Deputy Assistant Secretary (Trade and Investment Policy)
Stephen J. Entin, Deputy Assistant Secretary (Economic Forecasting)
Millicent A. Feller, Deputy Assistant Secretary (Legislative Affairs)
Jon M. Gaaserud, Senior Policy Advisor (Economic Anaysis)
Richard Greenstein, Director, Office of Information Resources Management
Michael F. Hill, Director, Office of Revenue Sharing
Michael R. Hill, Deputy Inspector General
Manuel H. Johnson, Jr., Assistant Secretary (Economic Policy)
Arthur W. Long, Senior National Intelligence Advisor
David C. Mulford, Assistant Secretary (International Affairs)

S.F. Timothy Mullen, Director, Office of Administrative Programs
Robert P. Newcomb, Deputy (Regulatory, Trade and Tariff Affairs) to Assistant Secretary (Enforcement & Operations)
John J. Niehenke, Deputy Assistant Secretary (Federal Finance)
Katherine D. Ortega, Treasurer of the United States
David D. Queen, Deputy Assistant Secretary (Enforcement)
Charles Schotta, Deputy Assistant Secretary (Arabian Peninsula Affairs)
Margaret D. Tutwiler, Assistant Secretary (Public Affairs and Public Liaison)
D. Edward Wilson, Jr., Deputy Assistant Secretary (Departmental Management).

FOR FURTHER INFORMATION CONTACT:
Philip E. Carolan, Executive Secretary, PRB, Room 1306, Main Treasury Building, 15th & Pennsylvania Avenue NW., Washington, D.C. 20220. Telephone: (202) 566-5468.

This notice does not meet the Department's criteria for significant regulations.

John F.W. Rogers,
Assistant Secretary (Management).

[FR Doc. 85-21026 Filed 9-3-85; 8:45 am]
BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 171
Wednesday, September 4, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:25 p.m. on Wednesday, August 28, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Cardwell State Bank, Cardwell, Missouri, which was closed by the Commissioner of Finance for the State of Missouri on Wednesday, August 28, 1985; (2) accept the bid for the transaction submitted by Merchants and Planters Bank of Hornersville, Missouri, Hornersville, Missouri, an insured State nonmember bank; (3) approve the application of Merchants and Planters Bank of Hornersville, Missouri, Hornersville, Missouri, for consent to purchase certain assets of and assume the liability to pay deposits made in Cardwell State Bank, Cardwell, Missouri, and for consent to establish the sole office of Cardwell State Bank as a facility of Merchants and Planters Bank of Hornersville, Missouri; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Missouri Delta Bank, Hayti, Missouri, which was closed by the Commissioner of Finance for the State of Missouri on Wednesday, August 28, 1985; (2) accept the bid for the transaction submitted by Bank of Hayti, Hayti, Missouri, an insured State nonmember bank; (3) approve the application of Bank of Hayti, Hayti, Missouri, for consent to purchase certain assets of and assume the liability to pay deposits made in Missouri Delta Bank, Hayti, Missouri, and for consent to establish the sole office of Missouri Delta Bank as a branch of Bank of Hayti; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Mr. John F. Downey, acting in the place and stead of Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 29, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-21135 Filed 8-30-85; 11:19 am]

BILLING CODE 6714-01-M

2

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., September 23, 1985.

PLACE: On board MV MISSISSIPPI at foot of Eight Street, Cairo, IL.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

(1) Report by president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting;

(2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and

(3) District Commander's report on the Mississippi River and Tributaries Project in Memphis District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601-634-5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 85-21213 Filed 8-30-85; 8:45 am]

BILLING CODE 3710-GX-M

3

MISSISSIPPI RIVER COMMISSION

TIME AND PLACE: 9:00 a.m., September 24, 1985.

PLACE: On board MV MISSISSIPPI at City Front, vicinity of Beale Street, Memphis, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

(1) Report by president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; and

(2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601-634-5766.

Note.—This document was originally published in the issue of August 26, 1985 at 50 FR 34579. It is reprinted in this issue for public inspection purposes.

Roger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 85-20413 Filed 8-30-85; 4:52 pm]

BILLING CODE 3710-GX-M

4

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., September 25, 1985.

PLACE: On board MV MISSISSIPPI at City Front, Greenville, MS.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

(1) Report by president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting;

(2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries project; and

(3) District Commander's report on the Mississippi River and Tributaries Project in Vicksburg District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601-634-5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 85-21214 Filed 8-30-85; 4:25 pm]

BILLING CODE 3710-GX-M

5

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., September 27, 1985.

PLACE: On board MV MISSISSIPPI at City Front, Morgan City, LA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

(1) Report by president on general conditions of the Mississippi River and Tributaries Projects and major accomplishments since the last meeting;

(2) Views and suggestions from members of the public on any matters pertaining to the Flood Contol, Mississippi River and Tributaries Project; and

(3) District Commander's report on the Mississippi River and Tributaries Project in New Orleans District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601–634–5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 85–21215 Filed 8–30–85; 4:52 pm

BILLING CODE 3710-GX-M

Federal Register

Wednesday
September 4, 1985

Part II

Department of Health and Human Services

Office of Human Development Services

Fiscal Year 1986 Coordinated Discretionary Funds Program; Availability of Funds and Request For Applications; Announcement

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement No. HDS-86-1]

FY 1986 Coordinated Discretionary Funds Program; Availability of Funds and Request for Applications

AGENCY: Office of Human Development Services, HHS.

ACTION: Announcement of availablity of funds and request for applications under the Office of Human Development Services' Coordinated Discretionary Funds Program.

SUMMARY: The Office of Human Development Services (HDS) announces the beginning of its Coordinated Discretionary Fund Program for Fiscal Year 1986.

Funding for HDS grants and cooperative agreements is authorized by legislation governing the discretionary programs of its constituent program administrations—the Administration for Children, Youth and Families (ACYF); the Administration on Developmental Disabilities (ADD); the Administration on Aging (AoA); and the Administration for Native Americans (ANA). This year, HDS is also embarking on a joint discretionary funding venture with the Work Incentive Program (WIN), a program jointly administered by HHS and the Department of Labor.

This program announcement consists of four parts. Part I provides background information, discusses the purpose of the HDS Coordinated Discretionary Funds Program, lists funding authorities, and briefly describes the application process. Part II describes the programmatic priorities under which HDS solicits applications for funding for projects. Part III describes in detail the application process. Part IV provides guidance on how to prepare and submit an application. All of the forms necessary to submit an application are published as part of this announcement following Part IV.

DATE: The closing date for receipt of applications under this announcement is November 20, 1985.

Application receipt point: Department of Health and Human Services, HDS/Grants and Contracts Management Division, 200 Independence Avenue, SW., Room 724-F, Washington, DC 20201. Attn: HDS-86-1.

HDS contract point: Department of Health and Human Services, HDS/OPD Division of Research and Demonstration, 200 Independence Ave., SW., Room 724-F, Washington, DC 20201. Telephone (202) 755-4633

Part I. Preamble

A: Goals of the Office of Human Development Services

The four program areas in the Office of Human Development Services, though varied, share a common mission: to reduce dependency and increase self-sufficiency among our most vulnerable citizens. Accomplishing this mission not only reduces the demand for services but makes it possible for more Americans to live independent lives. The enabling legislation for each HDS program makes it clear that the services funded are a means to an end. The Coordinated Discretionary Program must be viewed in the same way.

The goals of the Office of Human Development Services have not changed in four years. In order to be considered for funding under the CDP, each applicant must describe activities that contribute to meeting the goals of HDS. These goals are:

- To increase family and individual self-sufficiency and independence through social and economic development strategies;
- To target Federal assistance to those most in need;
- To improve the effectiveness and efficiency of State, local and tribally-administered human services.

These goals provide the framework for meeting the challenges presented by the changing environment of human services. The environment is changing in dramatic ways. Public resources are no longer being expended at a rapid pace and without forethought. We have left an era when the trend was to assign to the Federal government an ever-increasing responsibility for identifying the needs for social services and for designing programs to meet those needs. Public policy now articulates that decisions are best made at the level of government closest to the people, by elected State and local officials and those who manage at the State and local levels, whether they are elected officials, voluntary organizations, schools or religious organizations.

B. Findings from a Symposium on Social Services in the Year 2000

In order to promote HDS goals and better focus innovation from the Coordinated Discretionary Funds Program on the needs of the future, HDS recently sponsored a symposium to analyze the probable impact of current trends on social services in the year 2000.

Some of the most significant factors which are anticipated to shape American society during the next fifteen years include:

1. Future trends suggest a period of good overall economic growth. Favorable factors include: (1) Gains in productivity as the capital-to-labor ratio increases with added investment; (2) a maturing population with the baby-boom generation moving into its highest producing, highest consuming years; (3) moderation in inflation as unit labor costs grow at a slower pace and food and oil prices remain relatively stable; (4) reduced demographic contributions to unemployment as the labor force grows more slowly and the number of youth declines; and (5) the technological push for new products and processes both in manufacturing and services.

2. There will continue to be dramatic changes in the age group configuration of the population as the baby-boom and baby-bust generations grow older. The number of young children under the age of ten will swell through the early 1990s as the baby-boom produces its delayed progeny. The number of teenagers will drop through the mid-1990s. The huge baby-boom generation will move through its middle years into the prime working and family life stages. At the present time, older persons are the fastest-growing sector of our population, and the oldest among them (those 85+) are increasing even more rapidly. In the mid-1990s, the young-old group (65-74) will grow more slowly and actually decline slightly as the Great Depression babies reach that age, but the old-old (75+) will continue to increase at a rapid pace.

3. Black, Hispanic and Native American population growth rates will be substantially higher than the rest of the population, increasing their proportion to the total.

4. The maturing of the baby-boom generation will usher in a new family-oriented era, but both family and household structures will be more diverse than in the past. The number of female family heads will continue to increase, as a result of high divorce rates (though possibly plateauing) and out-of-wedlock births. "Blended" families will be widespread. The Census Bureau forecasts that 59 percent of the children born during the early 1980s may expect to live with only one parent for at least a year before the age of eighteen, and 35 percent will live with a stepparent at some time. At least half of all children in married-couple families can expect to have two employed parents.

5. The income of two-person elderly households will continue to outpace that of other age groups as a plateauing of gains in Social Security is more than offset by the increased prevalence of private pensisons. However, income support for aged single females and widows will continue to be a concern.

These are trends that necessitate a re-thinking on the part of all human services practitioners. In response to these trends of good overall economic growth, the continual changes in the age group configuration of the population, Black, Hispanic and Native American population growth rates, and the reconfiguration of the American family, HDS seeks, in this announcement, approaches that begin to invest in strategies to prevent future dependency and to assure maximum opportunities for self-sufficiency for HDS populations between now and the year 2000.

C. Mission of the Coordinated Discretionary Program

The Coordinated Discretionary Program is the major research and demonstration effort of the Office of Human Development Services. Through this program, HDS, in concert with not-for-profit, voluntary, and philanthropic organizations and local communities, attempts to analyze trends and anticipate the social issues that will become paramount in the future; improve the effectiveness and efficiency of the human services by developing new techniques and approaches to deal with social issues; and develop alternatives to traditional social services approaches.

We have seen and funded projects which were innovative and had far-reaching effects. It is time now to evaluate what has worked and to successfully disseminate the substantive and evaluative data to other communities so that the process of replication can begin on a wide-scale basis. There is no longer a need to fund projects that have already been funded to produce outcomes that we already know do not work. If, on the other hand, there are projects that do work in one community, they should be shared with other communities looking for the same solutions or outcomes.

The most successful projects, both in terms of outcome and federal financial participation, have been those based on a partnership among organizations, communities, school districts or localities which are committed to sharing and bringing to fruition a human services project that fulfills the HDS goals and is self-sustaining at the end of the Federal funding period.

An innovation that was developed in one part of the country is sometimes difficult to implement in another geographic area because each community has its own economic, social and cultural issues. Nevertheless, there are a good number of innovations in the field of human services that can be implemented in many communities without significant redesign for local conditions.

The concept of "franchising" has been demonstrated for decades in the private sector. Franchising is valuable because of its simplicity: what works well in one part of the country will probably work well in other places. Building on private sector approaches, HDS is interested this year in the concept of "franchising" human services innovations, that is, developing low-cost packages that help many communities replicate innovations that were developed elsewhere.

When a new approach in human services is transferred from one location to another, an important step is developing the documentation that captures the "essence" of the innovation. To facilitate transfer to other locations, the germ of the innovation must be separated from the personalities of the people and institutions involved in the original project. The successful capture—in a report, a videotape, in training materials, etc.—of the essence of the innovation can often create a "bandwagon" effect as more human services practitioners find out about it, leading to implementation in more locations.

Model approaches must be carefully chosen, and some modifications and adaptations must usually be made to fit different economic and social conditions.

Model approaches in human services are identified by results and by the approach taken in carrying out the project. Good models in the human services are those that have a direct client impact on reducing dependency, at a reasonable cost. Other features may include the presence of a long-range funding base for continuation of the project after Federal funding ends; involvement of private sector organizations; impact on a relatively large service population; and significant use of matching funds from sources other than the Federal government for such purposes as staff travel. Many innovative models that are suitable for replication have been identified in the priority area description in this announcement.

When a good model has been identified, it should be replicated. By replication we mean taking an innovative idea that was developed in one community and applying it to the population in another community that has the same or similar problem. Replication can also mean taking an approach that was developed to serve one population and adapting it to serve a different service population, in the same community or elsewhere.

In those priority areas that mention franchising or the replication of model approaches, an applicant may serve as an intermediary to market an innovation to more than one community, or a community that wishes to implement an innovation may apply on its own or may serve as an intermediary.

Replication that involves implementing an innovation in only one additional site at a relatively high cost is not a priority under this year's announcement, but may be considered if materials are developed that will permit further replication in other sites. Replication to several sites at moderate cost is more favorable. Franchising takes this concept a step further, and involves the development of materials that will allow communities nationwide to implement innovations without additional support. *Franchising is the most favored option among a range of replication techniques.*

Another objective of the Office of Human Development Services is to encourage partnerships between the public and private sectors in the provision of human services to those who need them most. State and local public agencies, and especially non-profit private human services agencies should make efforts to obtain the support of local philanthropic foundations, corporations and businesses. Such support is usually provided by local institutions in response to pressing local needs, and may be more flexible than that provided by an organization such as the Federal government that must respond to other agendas.

HDS would like to increase the role played by private philanthropic organizations—especially national and community foundations. Many foundations have concentrated on a particular aspect of human services and have made important contributions to the body of knowledge. HDS has entered into agreements with foundations nationwide to begin a partnership in developing new responses to social issues.

Where foundations are interested in participating with HDS in funding specific projects in this announcement, the priority area descriptions reflect the

names of the foundations involved. An example is priority area 2.3.A, Placement Prevention, for which the Edna McConnell Clark Foundation and HDS will join in the review, selection and consideration for funding of several projects aimed at strengthening families and the prevention of unnecessary foster care or other out of home placement. The funding mechanics for priority areas in which foundations will participate will follow the same procedures as all other applications under this announcement, except for applications made under priority area 5.2, Announcements by Foundations.

In priority area 5.2, where several foundations have already announced or will soon be announcing priorities of national scope that closely resemble HDS priorities, Federal staff will participate (through the foundation's process) in the selection of grantees.

Following this flexible approach, we expect that this year's diversity of public-private partnerships, as reflected in our work with foundations, will yield the benefit of better-targeted, community-based and community-supported projects. Applicants are advised that HDS plans to share applications with foundations in order to determine the potential for partnerships.

D. Focus on Dissemination/Utilization of Proven Techniques and Models

There exists in the human services field a vast amount of research, demonstrations and experience that has yet to be successfully transferred to the practitioner and policymaker and utilized for the benefit of HDS target populations. The wide gap between knowledge and practice in human services continues to grow. New knowledge from research, demonstrations, evaluations, training and technical assistance is unevenly applied. From the local to the national level, inadequate knowledge transfer, utilization and application activities are increasingly recognized as major issue areas.

The "state of the art" is different for different social issues. In some areas, we are still involved in basic research. In others, we are demonstrating the effectiveness of new ideas. However, HDS is concerned that many demonstrations that have proven effective have not been adopted nationwide simply because human services practitioners are not aware of them.

Dissemination and utilization of proven innovations is a focus under the Coordinated Discretionary Program for Fiscal Year 1986. Since most means of dissemination take the form of pamphlets, brochures, manuals, reports, films or periodicals, guidelines for the preparation of publications appear in Part III of this announcement.

E. Statutory Authorities

The individual statutory authorities under which grants and cooperative agreements will be awarded through the HDS Coordinated Discretionary Funds program are as follows:

- Head Start: Head Start Act, Subchapter B of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, as amended (42 U.S.C. 9831 et seq.);
- Child Welfare Services: Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96–272 (42 U.S.C. 626); section 426 of the Social Security Act, as amended, including the Child Welfare Services Training Grants Program (42 U.S.C. 5620);
- Runaway Youth Program: Runaway and Homeless Youth Act, as amended, Pub. L. 96–509 (42 U.S.C. 5701 et seq.);
- Child Abuse: Child Abuse Prevention and Treatment Act, Pub. L. 93–247, as amended (42 U.S.C. 5101 et seq.);
- Adoption Opportunities: Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, as amended, Pub. L. 95–266 (42 U.S.C. 5101 et seq.);
- Native Americans: Native American Programs Act of 1974, as amended, Pub. L. 93–644 (42 U.S.C. 2991 et. seq.) Funding for projects conducted by Indian tribes and tribal organizations, however, is not limited to this statutory authority. They may apply in any priority area except those where eligibility requirements are restricted. Those priority areas that may be of particular interest are noted here for ease of reference: 1.2, 2.3.C, 2.3.E., 2.3.F, 2.3.H, 6.3 and 8.4;
- Small Business Innovation Development Act of 1982, Pub. L. 97–219, amended section 9 of the Small Business Act (15 U.S.C. 631 et seq.);
- Developmental Disabilities Special Projects: Developmental Disabilities Act of 1984, Part E—Special Project Grants, section 62, Pub. L. 98–527 (42 U.S.C. 6000 et seq.);
- Social Services Research and Demonstrations: section 1110 of the Social Security Act, as amended;
- Older Americans: Training, Research and Discretionary Projects and Programs: Title IV of the Older Americans Act, as amended, Pub. L. 89–73 (42 U.S.C. 3031–3035e);
- Work Incentive Program: Title IV, Part C, section 441 of the Social Security Act (42 U.S.C. 641).

F. Fiscal Year 1986 HDS Coordinated Discretionary Funds Program (CDP) Process

In a departure from our practice of previous years, the Coordinated Discretionary Funds Program process for FY 1986 will consist of a one-stage full application. Applications are limited to 20 doubled-spaced pages, and must relate to the selection criteria established for review of applications.

In addition to the change to a one stage process, the format and evaluative criteria have also been simplified. The specific changes are indicated in Part III and should be reviewed thoroughly.

Several priority areas in this year's announcement permit applicants to propose projects of two or three year duration, although applicants should be aware that continuation of funding beyond the first budget period is contingent on the availability of funds. In multi-year projects, the budget periods are twelve months per year. That is, a three-year project would have three budget periods of twelve months each for a total of 36 months.

Project duration under most priority areas, however, is limited to a single budget period. In the case of projects that are limited to a single budget period, that budget period is normally twelve months, but may, in certain circumstances, be up to seventeen months.

The budget for a project with a single budget period should be for the total amount planned for the project through its completion, and the amount of Federal funding may not exceed $200,000 per budget period unless otherwise noted in the priority area description. The cover form for the application (Standard Form 424) should reflect the amount requested for the first budget period for multi-year projects, or the total amount requested for projects with a single budget period.

As required by the Child Abuse Prevention and Treatment Act, we have published in the **Federal Register** a notice of HDS proposed child abuse and neglect research priority areas for FY 1986 (50 FR 32769, August 14, 1985). We are in the process of receiving comments on the proposed priority areas. If the comments recommend significant new areas of research, HDS will consider publishing a new discretionary grant announcement in order to fund additional priority areas.

Part II. Priority Areas

The following is a list of the FY 1986 priority areas:

I. Social and Economic Development Strategies to Increase Family and Individual Self-Sufficiency and Independence

Area 1: Promotion of Economic Independence of Individuals

Topic 1.1: Opportunities in Employment for Individuals with Developmental Disabilities
- 1.1.A State Developmental Disabilities Council Employment Activities
- 1.1.B Stimulating Private Sector Job Commitments
- 1.1.C Exemplary Employment Models

Topic 1.2 Preparing Youth for Self-Sufficient Living
- 1.2.A Community Forums and Replication
- 1.2.B Approaches to Keep Youth in School
- 1.2.C School Drop-outs and Potential Drop-outs

Topic 1.3 Improving the Employment Potential of WIN Registrants
- 1.3.A WIN-HDS Coordination—Job Opportunities
- 1.3.B Hard-to-Place WIN Registrants
- 1.3.C Innovations for WIN Teenage Parents

Area 2: Support for Families and Community-Based Care

Topic 2.1: Child Development
- 2.1.A Prevention of Developmental Delays
- 2.1.B Models to Assist Teenage Mothers and Prevention of Child Abuse
- 2.1.C Community Groups
- 2.1.D Transition of Head Start Students to Public Schools
- 2.1.E Stimulating Community College Involvement in Competency Based Child Development Associate (CDA) Training for Family Day Care Providers

Topic 2.2: Adolescents and Youth
- 2.2.A Improving Shelter Staff Capacity to Deal with Problems of Alcohol Abuse among Runaway and Homeless Youth
- 2.2.B Self-sufficiency for Older Adolescents Served by the Public Child Welfare System
- 2.2.C Utilization of Successful Self-sufficiency Program Models for Older Homeless Youth

Topic 2.3: Child Welfare/Adoption Opportunities
- 2.3.A Placement Prevention
- 2.3.B Placement Prevention Training
- 2.3.C Grants to States to Increase the Number of Adoptive Placements of Special Needs Children
- 2.3.D Eliminating Unnecessary Delays in Moving Appropriate Children into the Adoption Process
- 2.3.E Post placement and Post Adoption Services for Special Needs Children and Their Families
- 2.3.F Collaborative Support of Special Needs Adoption by Unions, Sororities, Fraternities, Service Organizations and National Indian Organizations
- 2.3.G Therapeutic Foster Homes
- 2.3.H Indian Child Welfare/Preventive Services
- 2.3.I Adapting Foster Parent Training Materials to Address the Needs of Near-Emancipated Youth
- 2.3.J State Consortium on Special Needs Adoption

Topic 2.4: Child Abuse and Neglect
- 2.4.A Research on Reporting Practices in Child Abuse and Neglect
- 2.4.B Research on Central Registry Operations in Child Abuse and Neglect
- 2.4.C Use of Volunteers to Prevent Child Abuse
- 2.4.D Child Sexual Abuse by Women
- 2.4.E Research on Male Victims of Sexual Abuse
- 2.4.F Child/Youth Abuse and Neglect within Institutions
- 2.4.G Research on Emotional Maltreatment
- 2.4.H Pre-Service (Academic and Field Work Preparation) and In-Service Training for Professionals in Child Abuse and Neglect
- 2.4.I Specialized Treatment Training Teams
- 2.4.J Coordinated System Response to Abuse in Out-of-Home Child Care Settings
- 2.4.K Children's Court Appearances
- 2.4.L Recruitment of Volunteers to Serve as Court-Appointed Special Advocates
- 2.4.M Court Appointed Special Advocates: Dissemination of Best Models
- 2.4.N Research on Child Protective Services Screening Decisions and Substantiation

Topic 2.5: Supports to Strengthen Families
- 2.5.A Reunification of Families
- 2.5.B Corporate Partnership Efforts to Strengthen Families
- 2.5.C Strengthening Transient Families through Public-Private-Voluntary Partnerships
- 2.5.D Supports for Families with a Developmentally Disabled Family Member
- 2.5.E Family Day Care

Topic 2.6: Dissemination of Material on Self-sufficiency

Area 3: Promotion of Housing Alternatives and Living Arrangements

Topic 3.1: Living Arrangements for Individuals with Developmental Disabilities

Area 4: Preparation for an Aging Society

Topic 4.1: Planning for Later Life
Topic 4.2: Future Needs, Programs and Personnel Requirements
Topic 4.3: Aging Manpower Studies
Topic 4.4: Service Delivery Implications for Suburbia
Topic 4.5: Preparing Major Social Institutions for an Aging Society

Area 5: Foundations/HDS Partnerships

5.1: Challenge Grants to Community Foundations
5.2: Announcements by Foundations

II. Effectiveness and Efficiency of State and Locally Administered Social Services

Area 6: Strengthening the Functioning of State and Local Agencies and Tribal Governments

Topic 6.1: Management and Planning
- 6.1.A Models for Using Results Oriented Management
- 6.1.B Develop and Disseminate Information on Innovative Planning Models

Topic 6.2: Programs for the Aging
- 6.2.A Collaboration Efforts to Promote Systems Change to Improve the Lives of Older Americans
- 6.2.B Statewide Elder Abuse Preventive Efforts
- 6.2.C Legal Assistance for Older Persons
- 6.2.D Increasing Minority Elderly Access to Services

Topic 6.3: Programs for Native Americans
- 6.3.A Improvement of Effectiveness and Efficiency of Tribal Governments and Native American Organizations
- 6.3.B Demonstrations for Tribal and Urban Native American Community Development Technology Transfer

Topic 6.4: Demonstrations to Improve the Effectiveness of State Protection and Advocacy Systems for the Developmentally Disabled

Area 7: Improving the Management of Human Services

Topic 7.1: Reducing Foster Care Entry/Reentry Rates

Topic 7.2: Evaluation
- 7.2.A Evaluation Syntheses
- 7.2.B Integration of Evaluation Components in the Management Systems of State and Areas Agencies on Aging

Topic 7.3: Use of Modern Technology in Aging Services

Topic 7.4: Manpower Utilization in Human Services Agencies

Area 8: Child Welfare Services Training

Topic 8.1. Child Welfare Practitioner Training
Topic 8.2. State Training Assistance Projects
Topic 8.3. Child Welfare Traineeship Projects
Topic 8.4. Indian Child Welfare Training Projects

Area 9. Education, Awareness, and Training in Aging

Topic 9.1 Professional Training Programs
- 9.1.A Statewide Short-Term Training and Continuing Education for Professionals
- 9.1.B Aging Content in Professional Academic Training
- 9.1.C Development of New Aging Training Programs

Topic 9.2. Minority Training and Development

Topic 9.3. Dissemination of Information to Caregivers

Area 10: Transfer of International Innovations

Area 11: Small Business Innovation Research Program

A description of HDS's specific interests under each of these priority areas is presented below.

I. SOCIAL AND ECONOMIC DEVELOPMENT STRATEGIES TO INCREASE FAMILY AND INDIVIDUAL SELF-SUFFICIENCY AND INDEPENDENCE

The role of the Federal government in addressing social issues is to adopt and implement national policies or programs

aimed at promoting economic growth and prosperity, thereby reducing the need for human services. Every citizen who is able to participate in the economy should have the opportunity to seek and find employment, thereby becoming self-sufficient and free of dependency on publicly-supported services and assistance.

Human services, where they are necessary, should supplement assistance from family resources and the private sector, and be targeted on those most in need of help. They should also stimulate increased opportunities for HDS populations to become employed, and assist those who are unable to be employed to become more self-sufficient through participation in the family or community care arrangements. Social services should, in most cases, be an interim supplement to an individual's efforts toward self-sufficiency. They should be used in the absence of, rather than as a substitute for, adequate family and community resources.

Human services must also have a strong preventive effect. In order to achieve long-term effectiveness, human service interventions to assist an individual or family should result in a reduced likelihood of future need for services. HDS has emphasized a broader approach by stressing primary prevention (preventing a condition from occurring), and early interventions to ameliorate the effects of a condition.

Where publicly-funded services are necessary, they should be provided in accord with locally-developed social and economic development strategies. Such strategies serve to assist the growth of stable, diversified local economies, thereby providing jobs and reducing dependency. Social and economic development strategies should recognize that the community, the family and the individuals are primarily responsible for determining their own needs and for achieving their goals. Policies based on these premises have the greatest likelihood for effecting permanent, beneficial changes in the lives of individuals Americans.

Area 1: Promotion of Economic Independence of Individuals

Topic 1.1: Opportunities in Employment for Individuals with Developmental Disabilities

On November 28, 1983, President Reagan proclaimed the years 1983–1992 as "The Decade of the Disabled Person" and simultaneously announced a nationwide employment initiative for the developmentally disabled to be coordinated by the Office of Human Development Services.

Recognizing that the most meaningful source of employment for disabled persons is in the private sector, energy has been directed at finding ways to involve major industry groups and trade associations. Strategies and activities have been designed to inform private employers of the capabilities, productivity and conscientiousness of persons with developmental disabilities.

Results of the Employment Initiative include the placement of 25,000 persons with developmental disabilities in competitive employment in 1984. The gross annual earnings of these individuals were estimated to exceed $107 million. Tax contributions by these employees, estimated reductions in transfer payments, and estimated savings in costs for alternative programs were projected to be approximately $135 million annually. A goal of 50,000 jobs has been set for 1985, and 75,000 jobs for 1986, as HDS works to diversify the opportunities and tap into new employment avenues for persons with developmental disabilities.

1.1.A State Developmental Disabilities Council Employment Activities

The Developmental Disabilities Assistance and Bill of Rights Act of 1984 (Pub. L. 98–527) recognizes the importance of employment as a means of achieving independence, productivity and integration into the community by persons with developmental disabilities. "Employment-Related Activities" was added to the Act as a mandated service priority area. This legislation mandates that State Developmental Disabilities Council plans include "the provision of employment related activities among the priority services" after Fiscal Year 1986.

In support of this mandate, HDS is seeking applications from State Developmental Disabilities Planning Councils which will facilitate the development and implementation of strategies for effective *systemic* change within their State.

Such strategies should provide for the cooperation and involvement of key State agencies such as the Governor's Planning Council, Vocational Education, Employment Security, and the State MR/DD agency. In addition, the application should outline an approach for ensuring that persons with developmental disabilities have the active support of State agency resources in securing appropriate job training, placement in competitive employment and follow-along services as necessary. Evidence of commitment to participate by other State Agencies must be included in the proposal. States whose applications commit to goals for the employment of individuals with developmental disabilities will receive special consideration. Such employment goals should be in addition to the national goals of 50,000 and 75,000 new placements in 1985 and 1986, respectively.

Applications under this priority area will only be accepted from State Developmental Disabilities Councils and will be limited to $100,000. State Councils are encouraged to work with other potential funding sources, such as local foundations, corporations, and their own basic State grants to augment these funds. HDS will accept applications for multi-year projects not to exceed two years.

1.1.B Stimulating Private Sector Job Commitments

The Association for Retarded Citizens of the United States estimated that 75% of all adults with developmental disabilities could be fully self-supporting given appropriate training and opportunities. Another 10–15% could be partially self-supporting under these conditions. In order to realize these figures, we must expand private sector job opportunities for persons with developmental disabilities in a variety of industries, creating new approaches to marketing and placing persons in meaningful jobs.

To date, major trade associations in such areas as the hospital industry, nursing homes, restaurants, hotels and motels, banks and savings and loans, and horticulture have endorsed our Employment Initiative.

Many national networks of employing industries (National Restaurant Association, National Council for Therapy and Rehabilitation through Horticulture, American Hospital Association, Marriott Corporation, etc.) have joined in a collaborative effort with HDS to stimulate the placement of developmentally disabled workers in jobs.

Four models which have demonstrated success in providing opportunities for persons with severe disabilities to participate in work are the benchwork model, the mobile crew, the enclave, and supported jobs (Bellamy et al., in press). Components within each model typically include (1) real work environments, (2) sequential task breakdown, (3) financial incentives, (4) intensive supervision, (5) peer support and (6) counseling/case management. Current data indicate that employment of individuals with developmental disabilities can be achieved for

considerably less than $5,000 per placement.

HDS is seeking the transfer of this knowledge to previously untapped businesses and industries toward the goal of "productivity" for developmentally disabled citizens. Demonstrations will be supported which assist employing industries, small businesses and professional organizations to utilize existing models in generating commitments to hiring the developmentally disabled within their networks. Proposals should feature new dissemination strategies which make available to the private sector information about the many incentives for and benefits of employing the developmentally disabled.

There are no eligibility restrictions for applications in this priority area. However, applicants should be aware that funding under the Developmental Disabilities statutory authority is available for non-profit organizations and public agencies only. HDS will accept applications for multi-year projects not to exceed two years.

1.1.C Exemplary Employment Models

The previous priority area described HDS's intended support for strategies to involve networks of employers in the employment of persons with developmental disabilities within their industries. One of the barriers to the employment of the developmentally disabled in the past has been that these individuals sometimes were unprepared for the transition from sheltered work or residence in community-based care to the world of competitive employment with its attendant responsibilities. HDS is interested in supporting the development of models that help developmentally disabled individuals prepare for and adapt to competitive employment. Such models may be adopted by employers participating in projects under the previous priority area.

Exemplary models for the on-site training and employment of developmentally disabled workers have been successfully developed in recent years. While surveys show that the majority of developmentally disabled workers take entry-level positions in the areas of food service, housekeeping, and grounds and building maintenance, one out of nine employees has taken less traditional jobs such as computer programmers, printers, tax examiners, test technicians and taxi cab drivers (Kiernan, 1985).

HDS is interested in supporting further replication, dissemination, and franchising of effective models for the placement of developmentally disabled workers in a range of paying jobs based on proven techniques, materials and approaches. Of particular interest are models utilizing corporation-endorsed work seetings. Some examples, and contact references, include:

Harbor Regional Center. A joint effort of Harbor Regional Center and TRW, Inc., has provided training of individuals with developmental disabilities for employment in assembling electronic components in the aerospace industry. A job trainer, using state-of-the-art systematic training techniques, provided instruction in both technical skills and appropriate behavior at actual industry work stations. As a result of the 8–10 week training program, graduates are now employed in the electronics industry at a salary of $5.50 per hour; half of them were hired by TRW. Thorough, systematic task breakdown facilitated the training process, as did after hours support and counseling. Project results have been disseminated through workshops, presentations at employment conferences, journal articles and a training manual.

For more information, contact: Marion Brooks, Harbor Regional Center, 21321 Hawthorne Boulevard, Torrance, CA 90503 (213) 540–1711.

Maine Medical Center/Hospital Industries Project. A successful project using the supported jobs model, in which individuals with developmental disabilities work alongside non-disabled individuals yet receive additional supervison, is the Hospital Industries Project which began at Maine Medical Center in Portland over three years ago and now operates in six hospitals throughout New England. The project has trained and evaluated 112 individuals since its inception, and one-third of these individuals now have full-time jobs working in a hospital.

The trainees are integrated into the existing work force, in order to experience the totality of the job. They receive a paycheck, benefits, a uniform, and an ID, and are expected to work on all three of the hospital shifts in order to go through the same cycles as their peers. The training occurs in a variety of areas which prepare the individual for competitive work. These include food service, housekeeping, linen service, printing, clerical services and more.

For more information, contact: Richard Balser, MA Medical Center, 22 Bramhall Street, Portland, Maine 04102 (207) 871–2343.

Stepping Stones Growth Center. Two model mobile work crew projects developed at the Stepping Stones Growth Center are Boatworks, which trains developmentally disabled adults to clean and maintain pleasure boats, and CleanSweep, which is a janitorial and grounds maintenance program for the same population. The goals of these programs are provision of relevant training in a real work setting on state-of-the-art equipment and competitive employment of the trainees.

Instruction is provided by vocational instructors; crew size is limited to six trainees. In addition to actual work techniques, trainees learn good work habits and the social skills needed to interact with the public.

For more information, contact: Maria Distler, Stepping Stones Growth Center, 1720 Adeline Street, Oakland, CA 943607 (415) 834–3990.

Interested applicants should determine which model would be most appropriate to franchise or replicate in their community. Adaptations and refinements are acceptable as long as the primary features of the model are utilized. New projects should, however, build upon existing models and supplement basic designs with new program components which test the model in new settings in communities with other resources and new mix of services. Also included should be a report which describes problems and successes encountered in franchising or replicating the model.

There are no eligibility restrictions for applications in this priority area. However, applicants should be aware that funding under the Developmental Disabilities statutory authority is available only for non-profit organizations and public agencies. HDS will accept applications for multi-year projects not to exceed two years.

Topic 1.2: Preparing Youth for Self-Sufficient Living

In recent years, many favorable trends have emerged for the general population of children and youth. These trends include a drop in overall mortality rates of children and youth, a decrease in substance abuse, a decrease in the teen age birth rate (although the number of teen pregnancies and births remains high), and a halt in the downward trend in Scholastic Aptitude Test (SAT) scores.

However, these favorable trends disappear if we examine the same indicators for disadvantaged youth in the inner cities and among the rural poor. For this population, we find serious problems, including:

(a) A high infant mortality rate;

(b) A high rate of school dropouts;

(c) A high incidence of teenage pregnancy;

(d) An unemployment rate of approximately 40% among black and other minority youth; and,

(e) A lower rate of achievement on standardized tests (low enough to disqualify 26% of blacks and 20% of Hispanics who sign up for enlistment in the armed services).

For many disadvantaged inner-city and rural poor youth, dropping out of high school in sometimes an indicator of the beginning of lifelong dependency. Too often, dropping out of school means unemployment, public support or participation in the underground economy. But even for those who graduate from school, particularly in urban areas, many are not employable because of functional illiteracy, and/or behavioral and attitudinal problems.

Employers cite three reasons for not hiring disadvantaged youth: (a) Lack of basic educational achievement; (b) improper attitudes and unacceptable behavior; and (c) lack of job skills.

Educational skills remain the responsibility of the school systems, with reinforcement by families. But behavioral problems, which are a parental and community responsibility, also contribute to school dropout and joblessness. Many employers have indicated that they are willing to be responsible for job skill development if the parents and schools can assure job ready behavior and basic educational attainment.

Many models or prototypes have been developed and used successfully to address the problem of youth who are "at risk" in terms of their capacity to take care of themselves without public assistance. Adolescents might be labelled "at risk" who are pregnant or teenage parents, are delinquents, come from broken or blended families, live in porverty, are homeless and/or have emotional or social adjustment problems. Discussed below are four successful intervention models. Additional information about these models may be obtained by telephoning (202) 755–4633.

Cities in Schools: This model, sponsored by a number of organizations including the ARCO Foundation and the U.S. Department of Justice, addresses the problems of urban youth by coordinating both educational and human services to "at risk" youth and their families through public/private partnerships. This model for integrated human services delivery, which is cited as an effective approach for addressing the problems of dropouts and school violence, is being replicated in 15 cities across the country.

Operation Success: This project is State-funded and administered by the Federation of Employment and Guidance Services (FEGS) in several New York City high schools. Its purpose is to encourage youth to stay in school and to get school dropouts to complete their high school education by offering a Graduate Equivalency Diploma (GED), job training, job placement assistance and helping them with personal and family problems.

House of UMOJA: This program provides disadvantaged, troubled or "at-risk" youth with training, employment and entrepreneurship development within a residential community structure which can also stimulate economic development and create new jobs for other youth. Employment services are supplemented by comprehensive support services, including GED preparation and psychological counseling. Umoja is being partially supported by the Eisenhower Foundation in cooperation with other foundations in replicating this model around the country.

Project Redirection: This innovative model, developed under the auspices of the Manpower Demonstration Research Corporation in cooperation with the Ford Foundation, addresses the unique needs of adolescents who are pregnant or have children by offering a comprehensive set of services, including educational, health, employability and family planning services. The purpose of the program is to enable these teenagers to continue their schooling, to acquire employment-related skills, to delay subsequent pregnacy and ultimately to achieve personal and economic self-sufficiency.

In the priority areas that follow, priority consideration will be given to approaches that are comprehensive, that build on existing knowledge, and that are targeted on communities with a high incidence of disadvantaged and minority children and youth.

HDS is particularly interested in promoting existing successful approaches, including (but not limited to) the ones described above, to implement them in other communities. Replication or franchising strategies must be based on use of existing community resources, including volunteers and private sector experience.

1.2.A Community Forums and Replication

Of particular interest is the development of holistic, community-wide responses to the issue of preparing youth for social and economic self-sufficiency. One of the problems in developing community-wide responses is the lack of mechanisms for reaching agreement on alternative solutions.

The Domestic Policy Association, supported by the Kettering Foundation, sponsors innovative forums designed to help communities discuss issues that have local and national significance.

The "National Issues Forums" are held around the country each year to bring citizens in their local communities together to help themselves understand their differences and find common ground on shared topics.

The forums provide concerned individuals with a vehicle for discussing specific issues and for working toward acceptable solutions. Approximately two hundred communities currently participate in this process of discussing three current domestic policy issues each year.

One of the three issues for 1986 is "The Welfare State: Its Past and Future." Since the issue of youth self-sufficiency is an important component of any discussion of the welfare state, the Domestic Policy Association has agreed to integrate the youth self-sufficiency issue into the discussion of welfare policy.

The Domestic Policy Association will provide assistance for integrating youth self-sufficiency with the community forums. HDS will provide small seed grants, for up to 17 months, for initial participation in the forums and follow-up activities after the forum is completed. HDS will support the development of local initiatives in 3 or 4 cities with populations between 100,000 and 500,000.

Successful implementation of community forums is considered Phase I. At the end of Phase I, HDS will accept applications from organizations which participated in the first phase, and competitively consider awards for a phase II effort, which would involve a specific community effort to improve the capacity of local youth for self-sufficiency. A phase II effort would replicate one of the successful models described above, or other approaches identified in the community forums. The Phase II effort would be limited to coordinating activities to implement the findings of the community forum. The project must address the personal, educational and employment needs of "at-risk" youth.

Proposals for funding for the first phase must address the following:

1. Priority consideration will be given to geographic areas that are members of the Domestic Policy Association network, although other cities may be considered. The listing of cities in the Domestic Policy Association network

may be obtained from the Domestic Policy Association in Dayton, OH (513/434–7300).

2. The applicant organization must be capable of establishing partnerships for integrating the delivery of corporate, community and social services for "at-risk" youth and their families at local education sites. Commitments from the local government, local education agency, local organizations (including churches, unions, various nonprofit public and private agencies, and service providers) and corporations should be reflected by 1–2 sentence statements.

3. The applicant must propose how it will move from phase I, the forums, to phase II, the implementation of change in its community.

4. The application should describe how the project will utilize various media, including public and cable television.

HDS and the Kettering Foundation, in cooperation with the Domestic Policy Association, will cooperatively participate in funding this topic. The grant period for this priority area is limited to one year.

If the conditions described above are met, there are not further eligibility restrictions for applications under this priority area.

1.2.B Approaches To Keep Youth in School

HDS is concerned about negative attitudes and unreasonably low expectations among disadvantaged inner-city and rural poor children and youth. In many inner-city high schools more than 50% of the entering freshman class do not expect to graduate.

If these attitudes and expectations are to be changed, recent child development literature indicates that efforts should be made during the early adolescent years, which represent an opportunity for development similar to the early childhood years. Special efforts among disadvantaged high school freshmen, before negative perceptions of the future become ingrained, may help raise their long-term expectation about completing high school, beginning a career, and independently raising a family.

This priority area is intended to provide funds for the development of models which address the problems of younger youth (ages 12 to 15), especially those problems that might cause youth to drop out of school.

Projects should be comprehensive and must include known successful features from current practice and past demonstration projects. Innovations proven effective by these and other projects include:

(a) Involvement of accountable community leaders to help implement changes within the schools which focus on keeping youth in school;

(b) Involvement of parents, volunteer tutors, student mentors or counselors from community agencies and mentors from the private sector;

(c) Co-location of social services and clinical health services in schools;

(d) Professional and peer self help for students who "act out" antisocial feelings, or who are truants or are suspended from school; and

(e) Exposure to private sector job opportunities, internship, or guaranteed jobs at graduation.

Although projects should serve all adolescents and their families, special emphasis should be given to: (a) Pregnant and parenting teens; (b) youth in families where there is severe family malfunction; (c) homeless youth; and (d) youth in foster care. Proposed projects must have an evaluation component that measures project outcomes including reductions in school dropout rates and changes in student expectations about their future.

Projects should demonstrate the ability to develop an identifiable organization that will sustain the project after grant funding has terminated. Applications proposing multi-year demonstrations, not to exceed three years, will be accepted for this priority area.

The June Burnett Institute of the San Diego State University Foundation will participate in the review selection and will consider funding of one West Coast proposal that involves an inner-city community with a high proportion of minorities, including Hispanics, in this priority area. Other foundations and/or communities are encouraged to develop proposals focused on their own communities.

1.2.C School Drop-outs and Potential Drop-outs

In the inner cities and among the rural poor, rates of school dropouts among older disadvantaged youth (ages 16 to 19) are increasing, as are teen pregnancy rates. At the same time, functional literacy levels are decreasing among this population.

School systems are responsible for providing a basic education, but cannot be held solely responsible for finding solutions to complex situations that reflect personal, family, socio-cultural, and economic factors within the environment. There are also too many students and school dropouts who distrust the schools and other social institutions that normally support the transition to adulthood and self-sufficiency.

Youth must have basic reading, writing and math skills before employers will offer jobs or training. Acquiring these skills is even more important for youth who have dropped out of school before obtaining a high school diploma.

Proposed approaches should motivate youth toward employment while providing necessary education. Such an approach requires the involvement of parents and community institutions. Although both at risk males and females are of concern, a priority in this area is prevention of high school drop-out due to teen pregnancy.

For those teenage parents who have already dropped out, prevention of second pregnancies is critical since continued dependence on assistance becomes more likely if a teenager has a second child. Male responsibility in preparing for future parenting contributions, both personal and financial, is seen as an important component to this area.

In approximately one-third of adolescent pregnancies, the prospective parents form their own families. Therefore, proposed projects should focus on traditional family formation as an alternative approach for achieving both male and female responsibility.

Applications under this priority area should describe cooperative efforts that involve the youth, their parents, the schools, appropriate social and religious institutions, the private sector, interested volunteers and community leaders.

The goal would be to assure that drop-outs and those at immediate risk of school drop out have alternative arrangements to complete their education and ultimately secure gainful employment. Projects should assure the provision of well-coordinated and comprehensive services, using the resources of a variety of public and private agencies.

Proposed projects must show how social service agencies and youth crisis centers will be incorporated into the project network. Projects should promote better coordination of social services and activities under the Job Training Partnership Act (especially the Private Industry Councils) for this target group. Priority must be given to involving the private sector in providing job placements for youth served by the project.

The Eisenhower Foundation, in cooperation with other foundations, will participate in the review and consideration of funding of applications

under this topic, as well as in the provision of technical assistance to assure that all projects build on what has been learned from past research and experience.

HDS will consider applications to extend innovations for which the infrastructure is already in place and which hold exceptional promise.

Applications must include a sound plan for evaluating program outcomes and disseminating the results.

HDS encourages submissions from applicants which have communicated with and identified private sector funders (including PICs) who are interested in financial partnerships with HDS above and beyond the match required in this announcement. The Eisenhower Foundation can be contracted in Washington, DC to help borker such public-private partnerships.

Applications should described how projects will continue at the end of Federal funding. HDS will accept applications for multi-year demonstrations not to exceed three years. If the conditions described above are met, there are no further eligibility restrictions for applications under this priority area.

Topic 1.3 Improve the Employment Potential of WIN Registrants

Priority area descriptions under this topic concern a cooperative effort by HDS and the Work Incentive Program (WIN) to help regular WIN State agencies find unsubsidized jobs for WIN registrants. The purpose of these priority areas is to assist States in the development of innovative programs aimed at strengthening the capacity of WIN registrants to achieve or maintain self-sufficiency. Projects funded under this announcement should be evaluated to identify successful innovations for statewide implementation. Proposed projects must address new approaches to the delivery of training/employment activities and related support services.

Grant funds are not intended to fund service programs or to provide a source of supplemental funds for current regular WIN State program activities. We are especially interested in using these funds to assist State WIN agencies in reaching out to populations, such as families with children under the age of six years, who are currently underserved or unserved by the WIN program.

Applicants, which must be regular WIN State agencies, should develop demonstration applications in one of the three priority areas described below. Applications reflecting private sector involvement and public-private partnership will be given priority consideration in the review of applications. Federal project costs are not to exceed $50,000.

1.3.A WIN–HDS Coordination—Job Opportunities

Three projects will involve the training of WIN registrants for employment opportunities in Head Start programs, day care centers, in-home day care, after-school day care, senior citizen centers, and other community programs serving the aged, developmentally disabled, and Native Americans. The training to be provided can involve institutional training, on-the-job training, public service employment or any combination of these components.

The project must be focused on "real jobs", that is, at the end of the training, the trainee will be placed in an unsubsidized job with a salary equal to the prevailing rate in the community for that particular job type, or minimum wage level, whichever is higher.

The scope of projects funded under this priority area may include recruitment of employers; development of innovative training programs that accelerate learning; development of skills enabling individuals to do a range of jobs within the above-noted facilities; social services to help the person become prepared for employment; follow up reviews to help with job adjustment and rentention; and plans for dissemination of the model to other WIN programs.

Eligibility under this priority area is restricted to regular WIN State agencies.

1.3.B Hard-to-Place WIN Registrants

Some States have a number of WIN registrants who are in an "Unassigned Recipients" pool. These generally are persons who require more intensive training to become prepared for employment.

HDS is interested in projects to help this group of marginally-employable persons to develop employment related skills to their maximum capacity, and to overcome behavioral, physical, or educational handicaps that deter gainful employment.

WIN registrants in these projects are expected to be placed in unsubsidized employment jobs at end of the training period with a salary equal to the prevailing rate in the community for what particular job type or the minimum wage level, whichever is higher.

HDS is particularly interested in the development of strategies for local WIN agencies to use to assist transient families to find permanent housing, to obtain employment and to develop the social skills to enable them to manage a household. These families are often housed in "welfare hotels" because they have no permanent residence when they apply for assistance. These families must have applied for Aid to Families with Dependent Children (AFDC) or be WIN registrants.

Eligibility under this priority area is restricted to regular WIN State agencies.

1.3.C Innovations for WIN Teenage Parents

WIN has a very large population of teenage mothers who have not finished high school. We are interested in innovative approaches to training and development of jobs for these individuals that will: (a) Combine both training and supportive educational programs as part of the high school program; (b) begin working with the teenage mothers in their final year of high school to provide training and supportive services in job recruitment, job search and job placement activities and/or; (c) reinforce the need for continued parental responsibility while working. These activities should result in the individual WIN registrant moving into unsubsidized employment at the completion of high school with a salary equal to the prevailing rate in the community for that particular job type of the minimum wage level, whichever is higher.

HDS is also interested in projects that provide outreach to teenage fathers for employment assistance to assure present or future child support.

We expect that projects funded under this priority area will make extensive use of available findings from research that point the way to work with this group and "pilot test" a project based on recent research in this area.

Applications under this priority area are restricted to regular WIN State agencies.

Area 2: Support for Families and Community-Based Care

Topic 2.1: Child Development

Applicants interested in applying for funding under priority areas 2.1.A, 2.1.B or 2.1.C are encouraged to adapt approaches developed under the Parent Aide program sponsored by the National Center on Child Abuse and Neglect (NCCAN). Projects funded by NCCAN have shown that Parent Aides can reduce child abuse and neglect in families at high risk of requiring placement of children. Parent Aides are individuals who form relationships with families to assist them in coping with the problems and responsibilities of child-rearing. Community-based

programs coordinating volunteer parenting consultants, interns, and aides provide in-home support services to pregnant women with identified risk for parenting problems and families at high risk of requiring placement of a child in foster care. Further information about the Parent Aide program may be obtained by writing to the Clearinghouse on Child Abuse and Neglect, P.O. Box 1182, Washington, DC 20013 or telephoning (301) 251–5157.

2.1.A Prevention of Developmental Delays

When children do not progress as fast as other children their age in such areas as motor coordination, cognition and language development, they are said to be "developmentally delayed." Developmental delays are common to children raised in poverty. Among disadvantaged groups, those at high risk of having developmentally delayed children include parents who have acute or chronic psychiatric disorders, who suffer from substance abuse, debilitating physical disabilities, or other problems stemming from inadequate environmental conditions.

Developmental delays are especially severe among inner city and rural children with teen age parents. Studies show that even with the advantage of Head Start programs, some of these children "drop out" before completing high school, indicating learning and motivation problems existing at a very early age that are not behmg solued by traditional intervention methods.

Proposals are invited from applicants that will utilize the best available methods to identify children at risk of developmental delays and to promote early childhood development for children 0–6 in a circumscribed area, through a variety of existing programs.

Particular efforts should be planned to find the most hard-to-reach children in order to lessen the degree and likelihood of developmental delays, with priority given to screening program to identify very young children (aged 2 and below) for whom early intervention would be beneficial.

Improved and comprehensive approaches in impoverished rural areas or inner city neighborhoods are to be promoted through networks of existing child care providers and social services agencies. The network should include as many of the following components as possible:

- Training in child development, nutrition, health and safety for child care staff, mothers and grandmothers;
- Junior and Senior high school students recruited as interns for child care facilities;
- Therapeutic day care centers for infants and toddlers as well as preschool children 3–6 for children whose home environment is very poor. Professional staff, trainees and interns will work with these children to prevent, lessen, or overcome developmental delays;
- A Head Start program;
- High schools with a credit course in early childhood development and internship experience in Head Start or other child care facilities;
- Grandparents and available neighborhood mothers and fathers as volunteers;
- A preschool assessment with referral to appropriate preventive services within the network for all neighborhood children under age six; and
- Home Visiting Services—supervised by public health nurses—employing community-based trainees.

Applicants will be responsible for organizing these components to facilitate neighborhood child development networks. Successful applicants must show a broad commitment to these innovations encompassing home day care providers, parents, schools, health departments, employers, volunteers, churches and other related groups in the community.

Involvement with Parent Aide programs is also essential. Parent Aides are individuals, often parents themselves, trained volunteers or paraprofessionals in the field of child welfare, who form relationships with families to help them cope with the problems and responsibilities of child-rearing. Further information about Parent Aide programs may be obtained by writing to the Clearinghouse on Child Abuse and Neglect, P.O. Box 1182, Washington, DC 20013 or telephoning (301) 251–5157.

Projects also need to build on existing systems and should show plans toward becoming self-sufficient after grant funding is terminated. The applicant should be prepared to serve as a model for national replication in communities with similar problems.

Multi-year projects in 2 or 3 communities will be funded, for a project period not to exceed three years.

The Howard Heinz Endowment will consider joint funding with HDS for one project on this subject, selected from the greater Pittsburgh, Pa., area. The focus of this project will be to serve children from ages 0 to 4 from high-risk families.

The Harris Foundation will consider participating jointly with HDS in one project selected within the State of Illinois. The focus of this project will be to serve children 0 to 6 years of age.

2.1.B Models To Assist Teenage Mothers and Prevention of Child Abuse

Premature parenthood impacts not only the teen mother, but also her family, the teen father, and most significantly, the child. Teenagers are becoming parents at an increasingly earlier age. Teenagers now account for 16% of all live births and 22% of the low birth-weight babies.

Babies born to teenage mothers have a higher rate of infant mortality and greater incidence of developmental delays and abuse and neglect. These young mothers lack parenting skills and adequate knowledge of child growth and development. Early intervention with this high risk population is needed in order to reduce the potential for child abuse and neglect, as well as minimize the number of resultant foster care placements for the children of teenage mothers.

For the teen mother, early parenthood often results in less education, multiple and closely spaced pregnancies, and poverty. Young fathers either have to meet the financial responsibilities of parenthood, or deal with rejection by the young mother and/or her family.

The purpose of this priority area is:

(1) To replicate successful models for helping teenager parents in low income communities and inner city neighborhoods become more effective in their parenting roles, ensuring that they and their children receive needed medical and social services, and that the developmental needs of the children are met; and

(2) The development of prevention programs, support services and methods to disseminate child abuse and neglect prevention materials through Statewide and large metropolitan health agencies.

Certain components appear to be central to effective intervention with pregnant and parenting teens and their children. These key components include: strong family involvement (including the fathers, grandparents and extended family); opportunities for parental learning about child development; activities for positive parent/child interaction; and, access to resource centers, volunteers, and individuals to help link these families to existing community resources.

HDS is particularly interested in approaches to assist teenage mothers who are pregnant for the first time, and in building relationships between adolescents involved in pre- and post-natal clinics and public health nurses, visiting nurses, and/or homemakers who are also service providers. Parent aides should be included as a critical resource in working with these teenagers.

The family is an essential factor for most human service activities, having primary responsibility for the care of all its members. Therefore, projects emphasizing or enhancing the role of the family in the support of the teen parent are particularly encouraged.

Also of major importance is the encouragement of the teen father to meet his social and financial responsibilities to the child and to the mother of his child. Special consideration will be given to applicants who involve the child protective services agency in planning and implementing these prevention activities and who show promise of continuing programs when Federal funds end.

Involvement with Parent Aide programs is also essential. Parent Aides are individuals, often parents themselves, trained volunteers or paraprofessionals in the field of child welfare, who form relationships with families to help them cope with the problems and responsibilities of child-rearing. Further information about Parent Aide programs may be obtained by writing to the Clearinghouse on Child Abuse and Neglect, P.O. Box 1182, Washington, DC 20013 or telephoning (301) 251-5157.

HDS anticipates awarding approximately ten 24-month projects having a value not to exceed $75,000 per project, per year. If the conditions described above are met, there are no further restrictions on eligibility for applications in this priority area.

2.1.C Community Groups

As noted elsewhere in this announcement, there are increasing numbers of examples where extended family members, neighbors and other indigenous persons are becoming involved as role models, instructors or helping in other ways to redirect school dropouts, teach teen parents parenting skills or staff parent/child centers. As part of its mission to replicate or franchise effective approaches to reduce dependency, HDS is seeking proven models of programs where indigenous community groups are actively involved in helping strengthen at risk individuals and families, particularly those living in low income or inner-city neighborhoods.

HDS plans to fund three projects designed to replicate self-help programs operated by neighborhood associations, parent/student organizations, mothers groups or other informal indigenous groups actively involved in helping adolescent parents, school dropouts or unemployed youth.

The projects can be funded for up to 24 months for a maximum of $24,000 per project, per year. Priority for funding will be given to projects that require a minimum of professional staff effort and offer the greatest promise for easy replication. There are no eligibility restrictions for applications in this priority area.

2.1.D Transition of Head Start Students to Public Schools

Previous studies under the Head Start developmental continuity initiative have found that making the transition from a preschool program to a public school program is frequently a period of high stress for both children and parents, due hn oiqt to she kaqger class size and different roles and approaches of the two kinds of programs. Insufficient attention has been paid to noting the similarities and differences of the two systems and to assisting parents to serve as links, giving continuity to the child during this critical time. Pilot efforts to facilitate transition of children with handicaps has shown that attention needs to be paid to assisting staff in planning ahead for transition and in understanding each other's system, including the differences in staffing patterns and emphasis on child development and academic work.

Demonstrations of locally-designed ways to reduce the stress of transition and help children succeed are needed. Applications should address the need for assistance in transition of all Head Start children, including those with handicaps or at risk of abuse or neglect.

Proposals should address the following issues:

- Involving parents actively in planning, carrying out and assessing the transition activities.
- Increasing first-hand contact between the two systems, including the year before the children make the transition.
- Improving information-sharing procedures and increasing parent input in describing the children's interests, motivations and learning styles, along with any special problems or needs.
- Reviewing record-keeping procedures to see if common record items or processes could be designed to facilitate transition. Developing better understanding of the expectations of the public school for children entering from Head Start, ("survival skills"), particularly for children with special needs.
- Developing information and support resources for parents who formerly had dental care and other social services and health care provided and now will need to learn to access resources more independently. A special focus should be contacts with other parents already in the public school system.
- Increasing awareness of cultural and ethnic differences which may exist among children making the transition and their families which the school may not be aware of.
- Developing ways to assure that the transition assistance activities which prove to be effective are continued by the school and Head Start which demonstrated them after the discretionary grant period.

Special attention should be paid to developing information on costs involved and amount of volunteer time and in-kind contributions which were needed to operate the project, developing an assessment of the satisfaction with the activities by Head Start and public school staffs and parents and development of a final report which would contain narrative descriptions of strategies tried, both successful and unsuccessful, and cost and satisfaction information, at a minimum.

Under this priority area, eligible applicants include local Head Start Programs, or public schools or PTAs in the same geographic area as a participating Head Start program. Applications should reflect close collaboration, joint planning and an equal partnership, with commitments from both the school and Head Start, and with specific provisions for parent involvement.

HDS anticipates funding approximately fourteen 24-month projects having a value not to exceed $12,000 per project, per year. The mix of funded projects will represent geographic, cultural, and ethnic diversity.

2.1.E Stimulating Community College Involvement in Competency-Based Child Development Associate (CDA) Training for Family Day Care Providers

Family day care represents 90% of the child care arrangements made for preschool children outside of their own home. Most family day care providers are unlicensed and untrained. Currently, there is very little training available to this segment of the child care community. In the Fall of 1985, there will be available a Child Development Associate (CDA) Competency Standards and Assessment System for Family Day Care Providers. Therefore, HDS wants to stimulate two year community colleges to train family day care providers based on the CDA competencies and to prepare these candidates for the successful completion of the assessment process and award of the credential by the CDA national body.

Applicants will be expected to initiate new or adapt their current curriculum for family day care providers to meet the specific requirements for CDA training for this child care population. These requirements include the CDA competencies, 50% field work, evening courses (rather than day), college credit for all work completed satisfactorily and the use of the adapted curriculum with 15–20 family day care providers leading to successful assessment and CDA credential at the end of the 18 months. Successful applicants will disseminate findings at local and State levels and participants in three meetings of all successful applicants under this priority area.

Eligibility under this priority area is restricted to two-year community colleges with prior involvement in training in the area of early childhood education or child care. HDS anticipates funding approximately fifteen 17-month projects having a total value not to exceed $49,500 per project.

Topic 2.2: Adolescents and Youth

2.2.A Improving Shelter Staff Capacity to Deal with Problems of Alcohol Abuse among Runaway and Homeless Youth

Shelters for runaway and homeless youth are encountering disruptive behavior by adolescents due to alcohol abuse. The counseling and other assistance that is provided has tended to focus on the primary problems that are being experienced by these adolescents and to ignore the prevalent secondary problem posed by alcohol abuse. By providing earlier and more focused attention to this problem area, it is hoped that alcoholic dependency and abuse can be reduced and the resultant delinquent behavior avoided in the short-term while longer term treatment continues.

HDS seeks to develop models for the provision of early intervention services related to the prevention and treatment of alcohol abuse within shelters for runaway and homeless youth. Partnerships between runaway and homeless youth shelters and community-based programs on alcohol abuse prevention need to be developed that adapt treatment models and help provide shelter staff with the capability, knowledge and skills to deal with this problem, which shelters report as being prevalent in the youth population that they serve. Consideration should be given to the involvement of adolescents in the design of these programs.

While it is hoped that such programs would have wide applications to other settings, the principal issue is how shelters can increase their capacity to deal with this problem among the runaway and homeless youth served by the shelters.

HDS anticipates funding approximately 7–8 15-month projects having a total value not to exceed $65,000 per project. Eligibility under this priority area is restricted to shelters for runaway and homeless youth or coordinated networks of shelters in collaboration with mental health service providers and alcoholic treatment programs.

2.2.B Self-sufficiency for Older Adolescents Served by the Public Child Welfare System

An increasing number of young people are "aging out" of the foster care system. In 1983, approximately 18,000 young people moved from foster care into self-sufficiency. Many of these youth had been in foster family homes or institutions for extended periods and frequently lack rudimentary knowledge of finding a job, finding a place to live, managing money, health care, nutrition and the other necessities of living self-sufficiently.

Policy and program strategies, involving both service providers and foster parents, are needed to assure that youth in foster care receive the preparation and training that is required for them to live independently. Some States are establishing requirements that programs providing residential care to youth 15 years of age or older must add a self-sufficiency skills training component to their service design; additional efforts, however, need to be undertaken in this area.

Proposals should provide evidence of establishing and/or revising policies and programs which address the needs of older adolescents preparing to live self-sufficiently upon leaving foster care.

Emphasis should be placed on developing and implementing policies and programs; maintaining linkages with foster families and biological families; establishment of self-help groups and networks; and transitional social service support from the agency particularly during the early stages (12 months) following transition from foster care status to self-sufficiency.

Since HDS has, in recent years, funded a number of demonstrations in this area, we are particularly interested in projects that focus on the dissemination of proven approaches, or in projects that expand the knowledge base.

HDS anticipates funding approximately five 12 to 17 month projects having a total value not to exceed $60,000 per project. Applications should describe how the project will continue self-sufficiently at the end of the Federal funding period. Eligibility under this priority area is restricted to State child welfare agencies or local child welfare agencies located in large metropolitan areas.

2.2.C Utilization of Successful Self-sufficiency Program Models for Older Homeless Youth

Over the past few years HDS has supported the development of several models which have proven effective in preparing older homeless youth for self-sufficiency, and is interested in "franchising" these models to other communities. These models, and contact references, are:

Nassau County Youth Board. The Nassau County Youth Board project is a government structural model. The Nassau County Youth Board subcontracted with three community based organizations to provide case management type services to young people moving from institutional or residential settings back to their communities. Case management workers working with local agency councils (comprised upper level managers of departments or agencies involved with youth services) and through service agreements established with private residential referral sources (such as group residences), assisted youth in housing placement and the development of self-sufficiency.

Case workers receive referrals from a variety of sources prior to a youth's discharge from an institution. Workers develop a needs based case plan in consultation with the youth and his or her family and make appropriate referrals to local agencies or institutions for assistance. The major goals of the project are to reduce recidivism, reduce runaway/homeless episodes, reduce unemployment, and reduce difficulties in school re-entery and the school drop-out rate.

For more information contact: Lawrence F. Murray, Nassau County Youth Board, 222 Willis Avenue, Mineola, NY 11501, (516) 535–5868.

Bridge Over Troubled Waters. The Bridge House is an self-sufficient living facility model connected to a multi-service agency for runaway, throwaway, and homeless youth. Its purpose is to demonstrate that 16 and 17 year old youth, who could not return home and who were at risk for involvement in street life, could benefit from a residential, self-sufficient living arrangement through multi-supportive services.

The Bridge provided youth with a six-eight month residency in a supervised,

supportive, yet "independence-oriented" environment.

Client profiles were documented and maintained, data were collected on services received, and a series of research tools were administered with both project participants and a control group to determine levels of change, increased stability, and the learning of socially acceptable behavior patterns. Major demonstration aspects, to promote client independence and behavior change, included a cadre of highly skilled project staff, house resident counselors and volunteers, and education and employment requirements for all residents.

For more information contact: Sister Barbara Whelan, Executive Director, 147 Tremont Street, Boston, MA 02111, (617) 423–9575.

Starting Over Youth Resources Center. Starting Over is an self-sufficiency skills center model. Its goals is to help youth prevent a long-term dependency on social services and train them for constructive self-sufficient living. Youth between the ages of 16 and-a-half to 18 who are in the custody or care of the state are accepted into the program for up to twelve months. They are trained in home care, money management, social interaction and job attainment skills. Education, counseling and advocacy services are offered in an atmosphere of intensive peer and staff group support.

During the first three months of the program, clients are required to reside in the homelike facility. At the end of that period, a client may move into a self-sufficient living situation, if appropriate; and continue training and receiving services.

For further information contact: Kris Mayne, 6201 Belcrest Road, Hyattsville, MD 20782, (301) 779–1946.

Advocate Home Network, New Life Youth Services, Inc. The Advocate Home Network is an extended network of citizen-staff members within a defined community who each provide residential care for one or more young people in their own homes. As part of a service network of staff members, each Advocate provides a specific set of resources to all clients residing within the Network.

The specific services provided by each Advocate are based on the skills of the Advocate, the specific needs of the Network residents and the needs of the Network as a community-based organization. The services may include, but are not limited to: Educational, vocational, medical, legal, recreation and entrepreneurial skills.

The flexibility of the Network concept enables it to provide for the special needs of a variety of high risk target populations while offering a range of services including emergency shelter care, long-term care and extended follow-up services to the youth and families served. This service concept is a viable alternative to foster care, particularly for older (15–18) adolescents. The Network concept provides an excellent means through which we can engage the community to provide cost effective and humane care for high risk youth.

For further information, contact: Robert Mecum, P.O. Box 27035, Cincinnati, Ohio 45227, telephone (513) 561–0100.

Interested applicants should determine which model would be most appropriate to replicate in their community. Applicants should also refer to the description of the concept of "franchising" described in the preamble to this announcement.

Adaptations and refinements are acceptable as long as the primary features of the model are utilized. New projects should, however, build upon existing models and supplement basic designs with new program components which test the model in new settings in communities with other resources and new mix of services. Also included should be a report which specifically documents the process of transferring the model so that in the future others who are interested will have guidance.

HDS anticipates funding approximately 7–8 24 month projects having a value not to exceed $100,000 per project, per year. Applications are invited from or in concert with community foundations that are interested in effecting transfer to their communities and when necessary developing franchising materials to further promote transfers. There are no specific eligibility requirements for applications under this priority area.

Topic 2.3: Child Welfare/Adoption Opportunities

2.3.A Placement Prevention

Under the Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96–272, all States must provide services designed to prevent removal of children from their families. Although the passage and implementation of Pub. L. 96–272 with its legislative mandate to prevent, wherever possible, the removal of children from their families has reduced the number of children in foster care, over a quarter of a million children continue in publicly funded foster care in the United States. Children in out-of-home placement, particularly those in institutional placement, continue to be a large and costly segment of the population served by child welfare agencies.

Organizational and administrative structures and State and local financing practices appear to be barriers in shifting service provision from child placement focused to family centered services. Inadequate assessment of families and inadequate provision of appropriate family based services are the consequences.

Therefore HDS seeks to assist States in implementing demonstrations and successful models to overcome organizational, financial and administrative barriers which inhibit full use of appropriate alternatives to out-of-home placement. Applicants should draw on successful practices used by others to identify children who are at imminent risk of removal from their homes and serve them through enabling their families to provide acceptable protection and care.

While most States have pilot projects, or placement prevention programs in some metropolitan areas, less than 25% are statewide. We are particularly interested in encouraging States to provide preventive services programs on a statewide basis in State-administered, Programs. For County-administered, State-supervised programs applications may be submitted for less than a State-wide program.

Proposals should address one or more of the following issues:

(1) Services coordination to promote effective management of resources and delivery of services to families. In addressing issues of organization, applicants should describe how they will assure a family-based rather than placement-based approach to service delivery. Attention should be directed to critical points of decision regarding allocation of resources, e.g., emergency response, assessment of family needs, crisis intervention, case planning, and provision and coordination of appropriate services. HDS is interested in creative approaches to both family assessment and decision making that will support staff in changing historic practices which encouraged out-of-home placement.

(2) Promotion of adequate financing of family-based programs through increased flexibility in the use of funds, and the demonstration of cost effectiveness and program efficiency benefits when funding shifts are made from placement to in home services. State and local financing of effective placement services to at risk children and their families are impeded for a number of reasons including the ongoing financial support for traditional placement alternatives, the allocation of funding for preventive approaches and the concern about

increasing total costs unless family based services can be limited to families at imminent risk of unnecessary placement.

(3) Demonstrations from rural consortia of counties or other rural regional structures, working in cooperation with the State foster care agency, for purposes of developing prevention and family-based program across county lines.

Applications from such consortia should specify needs and resources including the development of natural helping networks, use of existing professionals such as school counselors, community mental health centers, State public health, agricultural extension and other such groups in planning and implementing a coordinated service system.

The purpose of funding under this priority area is developmental only; funds may not be used for the provision of services.

State or large metropolitan child welfare agencies, or a single rural county on behalf of a rural consortia of counties, are eligible to apply. County or voluntary agenices are eligible to develop innovative models if they demonstrate significant public agency support.

The Edna McConnell Clark Foundation will participate with HDS in the review and selection of projects under this priority area and will consider shared funding with HDS of $125,000 to $250,000 for each of 2 years with the amount of funding dependent upon the extent of population covered.

2.3.B Placement Prevention Training

Professionals in the judicial system, law enforcement and child welfare agencies are most often called upon to participate in determining the appropriate level of services required and/or whether to remove a child from his or her home. Frequently, because of lack of training, they are ill-prepared to distinguish between those children who may be safely served in their own families and those requiring placement. When in doubt, they often bow to administrative and public pressure and proceed with placement.

Projects considered for funding will provide, either jointly or separately, training to the above professionals in creative service options and better assessment skills which would help make sound placement versus non-placement judgements.

Another area of consideration will focus on applicants that can demonstrate an ability to work effectively with appropriate State Courts in sponsoring training supported by all levels of the judicial system related to meeting the statutory requirement that "reasonable efforts" be made to prevent placement.

Applications will be accepted from voluntary or public organizations including institutions such as schools of law or partnerships between schools of law and social work that can clearly demonstrate relationships with court administration at the State or local level. Applicants should demonstrate an awareness and use of appropriate existing resource materials for such training. Priority will be given to those projects proposing to train the largest number of professionals.

HDS anticipates funding approximately two 17-month projects having a total value not to exceed $200,000 per project.

The Edna McConnell Clark Foundation will participate with HDS in the review and selection of proposals in the priority area and will consider shared funding with HDS.

2.3.C Grants to States to Increase the Number of Adoptive Placements of Special Needs Children

There continue to be barriers to adoption for a significant number of children with special needs, especially minority and developmentally disabled children. These barriers include inadequate and/or ineffective recruitment methods, inadequate staff training, and poor coordination and cooperation between foster care and adoption social services components. The Adoption Opportunities Program has developed extensive resources including training materials for adoptive parents and adoption staff and program models related to recruitment, public service announcements, and private sector involvement in adoption which have been widely disseminated. States and communities should use these resources and information to increase their capacity to place special needs children, including Indian children utilizing Indian Child Welfare Act preferences, in adoptive homes.

Issues which applicants must address include:

- The applicant must propose a specific increase in the number of children to be adopted above those adopted in the most recent year for which statistics are available.
- The applicant must document how it will make permanent any improvement in the system which results from the grant.
- The applicant must certify that if it receives a grant, it can begin operation promptly, without unnecessary delays because of internal requirements for receiving funds.
- The applicant must identify additional title IV–B funds to add to the State contribution for the effort, in addition to the discretionary matching requirement of 25%.
- The applicant must work closely with the State Developmental Disabilities Council, University Affiliated Facility, voluntary agencies, parent groups, minority organizations and other interested agencies and organizations.

HDS anticipates funding approximately seventeen 17-month projects having a total value not to exceed $50,000 per project. This is the third year of the program and eligibility is limited to the following States which have not previously received grants: Alaska, Arkansas, Delaware, Hawaii, Idaho, Lousisiana, Michigan, Mississippi, Nevada, New Mexico, North Dakota, South Carolina, Tennessee, Texas, Vermont, West Virginia, and Wyoming.

2.3.D Eliminating Unneccessary Delays in Moving Appropriate Children into the Adoption Process

Many children remain in foster care too long because the child welfare agencies and court systems do not move them promptly or effectively through decision making processes which lead to the identification of those children for whom adoption is appropriate.

Among the barriers which contribute to this delay are:

- Insufficient staff attention and inadequate administrative procedures to determine and document whether reunification of these children is possible;
- Lack of contact between foster care and adoption staffs which would promote prompt movement of these children through termination procedures;
- Court staff and judges who still think that some children are not adoptable and who will not free children unless a family has been identified;
- Backlogs in the legal systems for obtaining the termination of parental rights which can tie up potentially adoptable children for years.

In addition, many of the older children who have potential for adoption have family ties and are reluctant to relinquish their family names and relationships. Likewise, parents are often reluctant to relinquish parental rights if they would be unable to maintain contact with these older children.

Applications are requested which will address means to expedite the decision making process for children for whom adoption is appropriate, but who are not yet free for adoption, as follows:

• Identify agency, judicial, court and other barriers to prompt termination of parental rights, for appropriate children, as well as proposed solutions;

• Address the need for agencies to streamline and clarify implementation of procedures for determining whether children can be returned to their families or whether they should be moved into adoption;

• Develop more effective working relationships between foster care and adoption staffs so as to encourage more prompt and responsive decision making about children;

• Address the problem of freeing children for whom family ties are important.

Applicants can address any one of these areas or systematically address all of them. Other barriers which impede the movement of appropriate children from foster care into the adoption process may be also addressed.

Emphasis should be placed on providing resources and approaches to these problems which can be replicated and on developing materials which will assist in this replication.

HDS anticipates funding approximately three 17 month projects having a value not to exceed $65,000 per project, per year. There are no eligibility restrictions for projects under this area.

2.3.E Post Placement and Post Adoption Services for Special Needs Children and Their Families

Post placement and post adoption services are often necessary to support adoptive placements of children with special needs. Children who qualify as special needs children are frequently suffering the effects of very difficult or deprived-life circumstances and are also dealing with the complexities of adjusting to adoption. For children who have been adopted as adolescents, the problems are even more frequent and more intense. There are few models that specifically address the emotional needs of these children. Methods and materials focused specifically on adopted children with severe emotional problems, particularly those adopted as adolescents, are frequently needed as the number of adoptions of special needs children, including Indian children, increases.

Often the mental health professionals are unfamiliar with adoption, particularly of special needs children and do not understand how to work with adoptive families and children. Practical experience suggests that these adoptions are the most vulnerable to disruption or dissolution, and that in addition to counseling, peer support groups and respite care are valuable service support efforts.

Proposals in this priority area must address collaborative projects between mental health and social service agencies which impact a significant number of children and families in order to develop successful approaches and materials, and disseminate them nationwide.

Materials developed must be suitable for replication, with a plan for dissemination. The applicant must assure a close collaboration between appropriate services and adoption agencies.

HDS anticipates funding approximately two 17-month projects having a total value not to exceed $125,000 per project. There are no restrictions on eligibility for applications in this priority area.

2.3.F Collaborative Support of Special Needs Adoption by Unions, Sororities, Fraternities, Service Organizations and National Indian Organizations

During the past two years, several organizations received Federal grants to develop public/private cooperative efforts to increase public awareness and facilitate the adoption of special needs children. Children were featured in company newsletters, on posters and flyers in office buildings and other worksites. Their plight was presented at business meetings, churches, conferences and other special events. In addition, adoption benefits packages were developed to be used by corporations and manuals were developed to be used by various adoption groups and organizations who are interested in working with the corporate sector.

Over 40 companies provide employees with benefits to help them adopt children. An increasing number of companies and groups are using this approach as an opportunity to support their employees' interest in adoption. HDS seeks similar efforts to be undertaken by unions, fraternal groups, service organizations and national Indian organizations.

Proposals must include strategies by service organizations, unions, national Indian organizations, national professional and fraternal organizations and sororities for addressing the need to adopt special needs children. This will be accomplished by engaging their membership in the following activities:

• Provide special needs adoption information and education. This may include replication or adaptation of previously developed materials or the development of new materials;

• Develop, replicate or franchise programs for recruiting members as adoptive parents and for utilizing members as recruiters;

• Replicate, franchise or adapt previously developed materials for use by the group or develop new materials;

• Establish linkages between prospective adoptive families and adoption agencies so that prospective parents can move successfully through the adoption process.

Eligible applicants are the national officers of unions, sororities, fraternal groups, service organizations and national Indian organizations. Preference will be given to applicants who provide reasonable estimates of the number of children who will be targeted for adoption as a result of the project. HDS anticipates funding several 17 month projects having a total value not to exceed $25,000 per project.

2.3.G Therapeutic Foster Homes

Many foster children have behavioral and/or emotional problems because of a history of being abused or neglected and the instability of multiple foster placements. Further, the inclusion of status offenders, juvenile delinquents or ranaway and homeless youth in the child welfare population adds many older children with severe problems. Also, children with multiple handicaps and developmentally disabled children are sometimes candidates for foster care. Many of these youngsters end up in institutional care because States do not have enough specialized foster families and specialized support services.

In previous years, HDS support has helped to develop models for medical professionals, such as registered nurses, to be trained to provide therapeutic foster care. This priority area is intended to experiment with training non-professional foster parents to be capable of handling children with a range of adjustment problems in a way that would assist them to overcome their problems and learn more appropriate ways of behaving. These parents would in effect have a corrective or therapeutic relationship with the children beyond the usual foster parent-child relationship.

Proposals should address development of demonstrations, for (a) recruitment and training of specialized forster parents; (b) intake, screening and assignment of children; (c) involvement of the biological parents; (d) worker training and support; and, (e) utilization of other formal and informal community resources (including the courts, mental health agencies, mental retardation/

developmental disabilities agencies, University Affiliated Facilities, youth services agencies, volunteers, etc.).

Examination of costs and effectiveness of therapeutic foster homes in comparison with utilization of institutional care for this population of children should also be examined and addressed. Consideration should be given to the development of linking foster homes into networks which will allow for group support and respite among foster parents.

HDS anticipates funding approximately three 17-month projects having a total value not to exceed $200,000 per project. Eligibility to apply in this priority area is restricted to public State and county/metropolitan child welfare agencies; or, with the documented support of public agencies, private non-profit agencies, foster parent associations and community mental health agencies may apply.

2.3.H Indian Child Welfare/Preventive Services

Recent reviews of services provided to Indian children and families indicate that Indian families were most frequently taken to court. State agencies were frequently unable to develop and/or provide for home based services to Indian families which in turn led to a disproportionate placement of Indian children in out-of-home settings.

Tribes have also experienced difficulties in their ability to provide on-reservation preventive services due to jurisdictional issues, licensing requirements, and limited fiscal and community resources.

Tribal governments are encouraged to develop strategies and to work with States and counties to fully implement the provisions of the Indian Child Welfare Act of 1978 and the 1980 Adoption Assistance and Child Welfare Act in the development and administration of family-based preventive services.

Past joint efforts between HDS and the Interior Department's Bureau of Indian Affairs have resulted in the increased provision of some child welfare services. This priority area, however, focuses on the goal of prevention of out-of-home placements.

Decreased out-of-home placements of Indian children and increased Tribal, State and/or county administered home based child welfare services to Indian families are expected outcomes.

HDS will also support Tribal projects of a State-wide scope to facilitate cooperation among Indian organizations, Tribes, State social services agencies and local service providers. Models of successful resolution of Tribal/State Indian child welfare home based services are sought for replication.

Priority will be given to those applications which have been developed for preventive and home based services that involve all the entities necessary at all Tribal, State, local and other jurisdictional levels to promote the reunification of Indian families with their children and to reduce the out-of-home placement of Indian children.

Eligibility is limited to Tribal governments, but demonstrated involvement with and linkage to other relevant systems and services must be identified.

2.3.I Adapting Foster Parent Training Materials to Address the Needs of Near-Emancipated Youth

Adolescents who are in foster care face the identity and development issues of all teenagers, plus those associated with growing up in foster care, lacking a permanent family and extended family network, feelings of anger and futility about their situation, and anxiety about their future. Upon the age of majority (usually 18) these youth must manage their own living conditions, budgets, jobs, and social activities, with very little preparation. Very few foster parents are prepared emotionally or educationally to help those older youth to make this transition to self reliance. While a number of excellent materials exists for foster parents, virtually none address this critical problem.

Proposals should address development of training materials and approaches which can supplement existing foster parent training materials, to address the needs of foster parents parenting near-emancipated youth.

The materials should emphasize how foster parents can assist the development of linkages and support systems for teenagers and can help the adolescent maintain family ties. In addition, materials should help familiarize foster parests with the range of skills and resources that adolescents in foster care will need in order to successfully adapt to self-sufficient living. Proposals should include the testing and evaluating of materials.

HDS anticipates funding approximately two 17-month projects having a total value not to exceed $200,000 per project. There are no elgibility restrictions for applications in this priority area.

2.3.J State Consortium on Special Needs Adoption

Of the children residing in foster care who have a goal of adoption, many are legally free for adoption and have not yet been placed with adoptive families. Although States have varying definitions of special needs children, it is clear that the majority of children awaiting adoption have special needs and are difficult to place. Many of them have awaited adoption for years.

The purpose of this priority area is to assist States which have a large number of children awaiting adoption to significantly increase the rate at which these children are placed with adoptive families.

Three year grants of approximately $50,000–$60,000 will be made to six to ten States which have more than 750 children for whom adoption is the plan. All States receiving grants will participate in a consortium of States, the purpose of which is to share information on successful and effective practices and devise innovative strategies to increase the rate of adoptive placements of special needs children. Federal funding is designed to support each State's participation in consortium activities which will include:

- Goal setting for increasing the number of children to be placed with adoptive families;
- Data collection and analysis by the Consortium leader of the number of children awaiting adoption, characteristics, and outcomes. Consortium participants shall generate the necessary data to assess periodic progress toward the goal;
- Semi-annual meetings of consortium members;
- Sharing of information on successful policies and practices to consortium members and all other States.

One participating State, with a good record in the area of finding adoptive homes for special needs children, will serve as consortium leader and will receive an additional award of $25,000 for this activity. Applicants who wish to be considered as consortium leader should so indicate at the time of application.

HDS is interested in attracting the participation of a number of States with various levels of performance in finding adoptive homes for special needs children which have a significant number of children available for adoption. Therefore, eligibility is limited to those States which have 750 or more children for whom adoption is the plan. Documentation to support this must be provided in the applications.

Topic 2.4: Child Abuse and Neglect

2.4.A Research on Reporting Practices in Child Abuse and Neglect

A 1983 report by the American Humane Association (AHA) on the incidence of child abuse and neglect indicated a marked increase in the number of reports of child maltreatment (a 142% increase over 1976). Professional sources reported 48% of the maltreatment reports; 39% of the reports came from friends, neighbors, relatives and self; 11% were reported anonymously; and other sources reported two percent. However, the National Incidence Study (1981) found that professionals only reported to child protective services 21% of the maltreatment cases they identified.

Research of national scope is needed to examine the key factors related to reporting and non-reporting, and to analyze the reporting practices of various mandated reporting groups. Specific areas to be addressed include: who reports and why; operational definitions for child maltreatment actually used by various non-professional and professional groups; criteria actually used for deciding whether or not to report; what reporting procedures have been developed for the public and mandated professionals (i.e., educators, doctors, day care personnel); and the child maltreatment categories most likely to be reported by professionals and non-professionals.

HDS anticipates funding one 24-month project having a value not to exceed $200,000 per year. There are no eligibility restrictions for applications in this priority area.

2.4.B. Research on Central Registry Operations in Child Abuse and Neglect

Forty-two States have centralized registries for child abuse and neglect cases. The information kept in these records varies as do State rules on sealing, destruction, amendment, and access to and confidentiality of records. These rich data sources can be used to aid case identification and assessment, and to facilitate policy planning and program development. To date, this information has tended to be underutilized and insufficiently safeguarded.

Comprehensive research is needed to explore current central registry practices and procedures across the nation. Special attention should be directed to issues surrounding: Data utilization in prevention, case management, system improvements and research; accessibility by victim, family or perpetrator; expungement of records; data maintenance procedures; local agency and State planning agency use of data; and recommendations for more uniform practices in these areas.

HDS anticipates funding one 17-month project having a total value not to exceed $175,000. There are no eligibility restrictions for applications in this priority area.

2.4.C Use of Volunteers to Prevent Child Abuse

Infants and children who required medical intensive care services during the newborn period are at high risk of medical and social handicapping conditions, leading to an increased potential for child abuse and neglect. This vulnerable population includes premature, low birth weight, and serverely handicapped infants, the former being over-represented in births to adolescent mothers. About 60 percent of all infants born more than eight weeks prematurely have minor or major developmental needs. Ten percent have a major permanent handicap such as blindness, deafness, or cerebral palsy; and older infants have ever higher rates of developmental disabilities.

The purpose of this priority area is to promote the use of volunteer peer support groups to work with families of high-risk and severely disabled infants in hospital settings; to promote the use of health care professionals and trained volunteers to provide home visiting services to families with infants at risk of neglect; and to promote the use of trained volunteers by schools and/or child care centers to provide home visiting services to the homes of children at risk of abuse and neglect. Applicants must incorporate the most appropriate models of community organization and the use of volunteers.

HDS is particularly interested in identifying effective patterns of service delivery that incorporate the most appropriate community organizations, such as hospitals, clinics, health care professionals, schools, social agencies and the use of volunteers. HDS believes that this approach will benefit both the parent and the child and lead to improved functional status of medically high risk infants, better functioning parents and decreased involvement of Child Protective Service agencies.

Applications should address:

- The need for close collaboration between hospitals and community organizations in developing and implementing programs to meet the needs of children at risk and their families;
- The special needs of parents who have the fewest resources, such as the very young, those who have not had adequate prenatal care and those who lack stable relationships, education, adequate housing and income;
- The need to promote the development of the infant/child both directly and through improving the functioning of the family;
- The use of trained volunteers to work with hospitals, clinics, health care professionals, schools or child care centers to provide home visiting services to families with infants at risk of neglect and abuse.

In past years, HDS has funded several successful efforts in the area of perinatal prevention. The findings of these projects should be incorporated into any new proposed effort. Hospitals participating in these projects include, for example: St. Margaret's Hospital, Boston, MA; Sacred Heart Hospital, Pensacola, FL; Saint Joseph's Hospital, Wichita, KS; and Huntington Memorial Hospital, Pasadena, CA. Further information about these projects may be obtained by writing to the Clearinghouse on Child Abuse and Neglect, P.O. Box 1182, Washington, DC 20013 or telephoning (301) 251–5157.

HDS anticipates funding 10 projects, not to exceed $20,000 each for a twelve month period. There are no eligibility restrictions for applications in this priority area.

2.4.D Child Sexual Abuse by Women

Just as it has been assumed until recently that boys were rarely sexually abused, so was it assumed that few women were perpetrators. However, researchers have begun to question whether this is the case.

While sexual abuse by females is less frequent than abuses committed by males, it does account for nearly 5% of abuses against girls and 20% of the abuses against boys (Finkelhor, 1984). Problems presented by female child sexual offenders have been ignored. A study to examine the scope of the female offender problem from definitional, prevention and treatment perspectives will be considered.

HDS anticipates funding approximately one 17-month project having a total value not to exceed $175,000 per project. There are no eligibility restrictions for applications in this priority area.

2.4.E Research on Male Victims of Sexual Abuse

Data suggest substantial underreporting nationwide of sexual abuses of male children. These cases differ from the classical model of the incestuous family (father/daughter incest based on martial breakdown and maternal abdication) and as a result

have often been overlooked (Finkelhor, 1984). However, an increase in the number of cases of abused boys, as high as one-third of case loads (Rogers, 1979; Seift, 1979), has underscored the need to better understand this problem.

Research is needed to investigate how sexual abuse of male children differs from abuse of females, specifically the nature of the abuse, who the abusers are, the extent to which abused male children are adolescent abusers of other children, and etiological information on adults who abuse male children.

HDS anticipates funding approximately two 17-month projects having a total value not to exceed $175,000 per project. There are no eligibility restrictions for applications in this priority area.

2.4.F Child/Youth Abuse and Neglect within Institutions

Several years ago prime time media exposures of the maltreatment of children and adolescents in residential care caused national concern about the plight of adolescents in these institutions. The National Center on Child Abuse and Neglect (NCCAN) has funded several demonstration projects to develop procedures and programs to respond to the actual or potential abuse and neglect of children and adolescents served in institutional settings.

This program priority is intended to address the need for the dissemination and replication of model programs in institutional facilities.

Applicants must implement approaches which provide for safe and secure care in residential facilities which serve children and adolescents. Involvement of the child's family, placement agency staff and citizens' review committees should be included. In addition, the children in care must have a specified procedure for filing complaints of maltreatment by institutional staff and personnel.

Preference will be given to applicants who demonstrate continuation of the program beyond Federal funding. Previously-funded program models will be made available for replication. Information about program models will be available upon request by writing the Clearinghouse on Child Abuse and Neglect, P.O. Box 1182, Washington, DC 20013 or telephoning (301) 251-5157.

Eligibility to apply under this priority area is restricted to national and State associations of residential child care agencies and State programs in order to disseminate and replicate proven programs models that have led to protecting children from abuse and neglect while being cared for in residential (24 hour) institutions. HDS anticipates funding approximately three 36-month projects having a value not to exceed $100,000 per project, per year.

2.4.G Research on Emotional Maltreatment

Emotional maltreatment (mental injury or psychological abuse) is the form of child abuse and neglect which remains most difficult to define, identify, investigate and treat. The protection of these children and the treatment of these families requires intense involvement and a high level of therapeutic skill, although little guidance is available for those service providers who cope with this form of child abuse and neglect.

Recent research has made some progress in better defining emotional maltreatment (Garbarino, 1985). Further research is needed to assess the scope and nature of this problem and to identify special treatment approaches for children and adult/caretakers.

HDS anticipates funding approximately two 24-month projects having a value not to exceed $150,000 per project, per year. There are no eligibility restrictions for applications in this priority area.

2.4.H Pre-Service (Academic and Field Work Preparation) and In-Service Training for Professionals in Child Abuse and Neglect

Child abuse demands specialized legal, case management and treatment responses. The definition of child abuse and neglect has been expanded over the years to include sexual abuse and exploitation and abuse and neglect in and out of home care settings.

There has been an increase in numbers of reports and complexity of cases, such as those related to sexual abuse. Social workers, health and mental health personnel, law enforcement professionals and judges are now handling a variety of intra-familial and extra-familial cases without adequate specialized training and background.

There is a need for expanded pre-service academic training for professionals entering the human service field and continued in-service training for professionals already involved with child abuse and neglect cases. HDS is interested in receiving applications from organizations which provide this training. Institutions of higher education provide professional training but the changing nature of child abuse cases requires updating of curricula. Professional organizations of educational, medical and legal professionals and law enforcement officials, provide continuing education opportunities to their memberships.

Applicants must develop an approach to update existing child abuse and neglect training materials and integrate these materials into existing pre-service (academic) and in-service (continuing education) programs for professionals concerned with the care and treatment of abused and neglected children and their families.

HDS anticipates funding approximately fifteen 24-month projects having a value not to exceed $50,000 per project, per year. Eligibility to apply under this priority area is restricted to schools with established curricula for the preparation of medical and legal professionals, law enforcement officials and social services professionals, as well as major national and State professional organizations.

2.4.I: Specialized Treatment Training Teams

The reports of child sexual abuse cases are on the increase. Both in-home and out-of-home child sexual maltreatment cases have created media attention in many States during the last three years. Child sexual abuse cases pose particularly difficult treatment problems which require specialized approaches followed by intensive supervision and monitoring. Few communities are able to meet that need due to either or lack of treatment resources or appropriate methodologies to implement specialized programs. Applications are requested that propose using specialized treatment teams to provide services to children and families involved in child sexual abuse cases.

Applicants must develop approaches for the establishment of specialized treatment teams to serve as consultants to frontline workers involved with managing in-home and out-of-home child sexual abuse cases. The mitigation of organizational barriers, such as the difficulty in meeting statutory requirements for confidentiality and limited accessibility to data, must be achieved in order to focus efforts on treatment of and support for children and parents.

Preference will be given to applicants which demonstrates Statewide coverage or propose a method which will lead incrementally to Statewide coverage. Funds may be used for establishing a system to implement specialized training teams, developing the coordination process and procedures, training and other developmental costs. Salaries of specialized teams or ongoing service delivery costs are not to be included as a part of the grant.

HDS anticipates funding approximately ten 24-month projects having a value not to exceed $75,000 per project, per year. Eligibility is limited to State or local agencies.

2.4.J Coordinated System Response to Abuse in Out-of-Home Child Care Settings

During the last year, many reports of out-of-home child sexual maltreatment have come to the forefront. The investigation and management of these cases have been difficult because in many locations there are no policies or procedures for law enforcement officials or child protective service agencies to follow in responding to reports of out-of-home child care sexual abuse.

Poorly coordinated responses may result in additional trauma to the child-victim and family.

Child protective services staff are not trained to conduct criminal investigations and law enforcement agencies may not be familiar with the services or expertise offered by CPS and other community agencies. Demonstration projects are needed to gain experience and knowledge in this area.

Applications are requested that develop approaches which demonstrate colloboration and coordination between child protective service agencies and law enforcement offices in receiving reports of out-of-home child sexual maltreatment in out of home child care settings. Emphasis should be placed on minimizing the additional trauma to the child. Agreements should be developed with mental health clinics to provide services to the victim and the victim's parents at the time of the crisis. The prosecutor's office should be included in the coordinated services network since most child sexual abuse cases lead to court adjudication.

Preference will be given to those applicants which provide evidence of collaboration with and coordination among the various agencies involved in out-of-home child sexual abuse cases, such as child protective service agencies, licensing agencies, law enforcement agencies, mental health agencies, the prosecutor's office, and judges.

HDS anticipates funding approximately six 24-month projects having a value not to exceed $100,000 per project, per year. There are no special eligibility requirements for applications in this priority area.

2.4.K Children's Court Appearances

When child abusers are prosecuted, their child-victims are often the only witnesses available. Experts in the field say that the prosecutorial process is both difficult for judge and jury, and traumatizing to the child-victim. Preliminary research efforts have begun to analyze and document the effects of courtroom experiences on the child and to develop less traumatizing courtroom procedures.

However, HDS is now interested in supporting research that would examine the viability of children's testimony. This question, whether sworn testimony presented by children is sufficient to bring about a conviction, has been receiving increasing attention in the media and from defendant advocacy organizations. There is a need to focus on a variety of issues raised by this problem.

Research is needed to explore the ability of children to accurately recount events, children's suggestibility to falsification of events, jurors' views of children's credibility; and to develop means to strengthen children's credibility, improve documentation, and lessen the danger of case dismissal on a technicality.

HDS anticipates funding approximately three 36-month projects having a value not to exceed $150,000 per project, per year. There are no eligibility requirements for applications in this priority area.

2.4.L Recruitment of Volunteers to Serve as Court-Appointed Special Advocates

HDS will support projects through seed grants in new locations to assist local voluntary community organizations or coalitions of organizations to recruit, train and use volunteers as Court-Appointed Special Advocates (CASAs) or Guardians Ad Litem to determine and recommend to juvenile court judges which course of action is in the best interest of the child, based on the volunteer's independent investigation.

A CASA volunteer insures that every child has a permanent placement plan at the time of the judicial disposition and monitors the plan to make sure it is adhered to. CASAs serve as independent advocates for abused, neglected or dependent children, as well as children who are in custody of a public agency and who have been placed in foster care.

Applicants must show that the court desires to support the project and must also demonstrate the capacity to develop and implement appropriate training and to coordinate the program under the auspices of the court.

Applicants must show that efforts will be made to enlist volunteers who represent the racial or ethnic characteristics of the child population being served. Applicants must also show their willingness to work in partnership with the National CASA Association and the State task forces on permanency for children set up by the National Council of Juvenile and Family Court Judges with funding from the Office of Juvenile Justice and Delinquency Prevention of the Justice Department.

HDS anticipates funding several 36 month projects having a value not to exceed $20,000 dollars per project, each year. There are no eligibility restrictions for applications under this priority area.

2.4.M Court Appointed Special Advocates: Dissemination of Best Models

HDS in consultation with the Department of Justice has funded a number of projects that demonstrate how local voluntary community organizations or coalitions of organizations recruit, train and use volunteers as Court Appointed Special Advocates (CASAs) or Guardians Ad Litem to determine and recommend to juvenile court judges which course of action is in the best interest of the child based on the volunteers independent investigation.

Applications are requested that will identify the most effective and proven CASA models for the benefit of national organizations which are organizing and operating CASA programs. These models will be evaluated, documented and the findings disseminated nationally.

During the evaluation phase a number of issues need to be examined when evaluating the different CASA programs, such as: (1) Profile of the CASA volunteers; (2) how the training and recruitment of volunteers is conducted; (3) how the coordination between the court and child welfare services is handled; (4) the impact on child welfare services; (5) the kind of evaluation being used; (6) effectiveness of the coordination; and (7) methods of project management. Applications should describe how the models will be selected and how they will be promoted on a national basis.

HDS anticipates funding several 36 month projects having a value not to exceed $20,000 dollars per project, each year. There are no eligibility restrictions for projects under this priority area.

2.4.N Research on Child Protective Services Screening Decisions and Substantiation

A recent survey of the status of child protective services (CPS) showed that these agencies are experiencing

increases in both the number of referrals and the severity of cases. In most States, this situation has led to policies that allow staff to screen out cases without full investigation. While written screening policies do exist in many States, a survey of CPS administrators indicated that in practice these decisions are based primarily on worker and supervisor judgement (American Humane Association, 1983).

There seems to be a considerable gap between policy and practice with regard to substantiation in many States, and policy related to screening is virtually nonexistent. Of particular concern was the finding that while increased case volume does serve as a criterion for prioritization or substantiation, there was no evidence that specific rules are applied in the decision-making process.

While the 1983 AHA study researched policy issues regarding substantiation, it did not look into how the policies were or were not implemented and the consequences of implementation (or lack thereof) on the caseloads to be served. HDS is seeking applications to study the processes and problems involved in screening decisions as well as methods to improve screening techniques and subsequent substantiation.

Specific areas to be addressed are: the basis for selection of reports to be investigated; classification criteria for investigation and substantiation; the relationship between substantiation and reporting group; the relationship between substantiation and type of reported abuse; and the identification of methods to improve CPS screening and substantiation decisions.

HDS anticipates funding one 24-month project having a value not to exceed $200,000 per year. There are no eligibility restrictions for applications in this priority area.

Topic 2.5: Supports to Strengthen Families

2.5.A Reunification of Families

Many children are removed from the home for reasons of child abuse and neglect. Parents of these children are often too young or immature to exhibit adequate parenting skills, or they suffer from drug abuse or are mentally ill.

However, despite these deficiencies, parents or a single parent may be able to function in the adult world of work and other non-parenting activities. HDS seeks to develop models for promoting financial, social and emotional support from the biological parents of children in foster care.

Research and practice have documented that frequency of parental visiting and the consequent maintenance of the parent—child relationship is a crucial component of efforts to reunify children with their biological parents. However, for a variety of reasons, such visiting is often limited and infrequent. When it does take place, foster parents are often unable to respond positively and may view distressing effects on a child as harmful to the child.

Proposals should address the development of systematic approaches for increasing involvement of biological parents with their children in foster care, with a special emphasis on regular visitation and positive, supportive communication between the biological family and the foster family. HDS is also interested in developing models for financial support by parents of children in foster care. The use of volunteers as facilitators in this process should be included.

HDS anticipates funding approximately three 17-month projects having a total value not to exceed $100,000 per project. Eligibility to apply under this priority area is restricted to public and private voluntary agencies providing foster care or foster parent associations, with documented support of an agency.

2.5.B Corporate Partnership Efforts to Strengthen Families

The prevention of runaway behavior, family conflict and other factors which cause family dysfunction are areas of concern not only to HDS but to communities nationwide. Educational efforts and the provision of direct services have proven effective in reaching out to and assisting families experiencing such dysfunction.

Many corporations have played an important role in this area by providing support to employees and their families through efforts such as employee assistance programs, educational workshops, referral services, and third party payments for the delivery of direct services.

HDS is seeking partnership demonstrations between centers for runaway and homeless youth (or other service providers) and large and small corporations with existing or new employee assistance programs for the provision of educational and direct services around such issues as preventing runaway behavior, adolescent alcohol and drug abuse and adolescent abuse and neglect; and improving the parenting skills of parents with teenagers.

The services provided could include counseling, group therapy, in-home family services, information and referral, family support networks, and other types of assistance. Applications should address the development of direct service delivery, educational programs or a combination of both components to be added to an employee assistance program as well as an evaluation of the component(s) implemented in order to determine the interest in and the impact of the assistance provided. The specific issue(s) or area(s) to be addressed should also be included, together with the reason(s) for their selection.

Area of interest include, but are not limited to, adolescent abuse and neglect, suicide prevention, and adolescent alcohol and drug abuse. Strategies for working with small businesses (10–30 employees) where the likelihood of an organized employee assistance program is small are of particular interest.

HDS anticiaptes funding approximately eight 17-month projects having a total value not to exceed $75,000 per project. Eligibility to apply under this priority area is restricted to centers for runaway and homeless youth, coordinated networks of such centers or community-based youth service providers. In each case, there must be demonstrated collaboration with and commitment from a local business or corporation.

2.5.C Strengthening Transient Families through Public-Private-Voluntary Partnerships

The number of displaced and transient families without appropriate living accommodations who are having difficulty forming and maintaining households is increasing across the country. The public costs of assisting these families are excessive and the damage that family members experience is potentially destructive to the individuals involved.

One of the known public costs of family break-up among displaced families is foster care placement for the children. Although statistics are not readily available, some agencies report up to 20% of the foster care caseload is related to the lack of appropriate family living arrangements. There is a need to develop effective short and long term economic self-sufficiency strategies to assist transient or displaced families to break out of a cycle of dependency and dysfunctional life styles.

HDS seeks to identify community-based collaborative efforts to intervene in destructive patterns so that families remain intact and children and adults receive appropriate health, educational and social services geared to strengthening the family unit.

Applications must incorporate at least one of the approaches described below, with special emphasis on cooperation between the public and private-voluntary sectors:

(a) Promote local voluntary/public/private sector networking to identify strategies and assist in developing emergency services to stabilize displaced families, including the use of intergenerational and interdisciplinary strategies for working with displaced families, such as families "adopting" other families.

(b) Target areas with significant numbers of displaced families and use existing human services and community resources to demonstrate longer-term collaborative voluntary/public/private sector approaches to assist displaced families in becoming economically self-sufficient. For example, use the Head Start migrant program model to target preschool programs to a transient population for the purpose of identifying and addressing family needs.

(c) Coordinate and target existing or new preventive services critical to enhancing families' ability to develop and maintain households. Examples are: working with local housing authorities to generate or target affordable housing; assisting individuals in gaining access to appropriate support services in the community; working with the private sector in developing job exposure opportunities; and obtaining services to meet the special needs of children at risk of displacement.

(d) Work with the child welfare system to maintain children with their families and to improve pre-placement preventive services so that families can access the support needed.

(e) Encourage outreach services to help displaced families gain access to the human services and community resources that are available.

Only applications addressing problems of displaced families and their children will be considered for this priority area. The proposed projects may be multi-year demonstrations for a maximum of three years.

HDS is particularly interested in applications from community organizations which show support from community foundations, corporations, or voluntary organizations.

Applications should describe how projects will continue self-sufficiently at the end of Federal funding. HDS will accept applications for multi-year demonstrations not to exceed three years. If the conditions described above are met, there are no further eligibility restrictions for applications under this priority area.

2.5.D Supports for Families with a Developmentally Disabled Member

Although most developmentally disabled individuals reside with their families—placing tremendous pressure on those families—support services are more likely to be made available to developmentally disabled persons who reside in group homes or intermediate care facilities. HDS recognizes the need for a spectrum of support services to families who elect to maintain their developmentally disabled members at home, as a means of preventing erosion of the structure within which that care is provided.

As a result of publications developed under the UAF Networking Initiative for Services to Adults with Developmental Disabilities, the scope of services that forms the basis for family support has been more clearly identified. It includes, but is not limited to, training to assist parents in managing behavior and teaching socially beneficial skills, services to assist parents in care, training and integration of their developmentally disabled children (e.g., employment, transportation, recreation programs, counseling), respite care to allow parents some relief from the demanding tasks of caring for a developmentally disabled family member, and support groups to provide emotional and practical supports among parents.

HDS will support demonstrations which promote the reinforcement of the model of family-based care for the developmentally disabled. Programs addressing single support strategies, such as respite care, have been selected in past discretionary competitions. What is needed now are strong, well-conceived models incorporating multiple facets of the range of family support services.

HDS will accept applications for multi-year project periods not to exceed two years. There are no eligibility restrictions for applications in this priority area.

2.5.E Family Day Care

Family day care is a major source of child care in the United States, accounting for nearly forty percent of all care for children under the age of six. As the birth rate continues to rise for women of child bearing age in the labor force and these women return to their jobs soon after the birth of their children, the demand for family day care has increased.

HDS is interested in identifying effective approaches to providing family day care for those parents who prefer family day care and disseminating this information widely. These approaches should provide for an increase in the availability of family day care and improve the effectivenes and quality of family day care providers.

The development of networks has been an effective method to support family day care providers. A network provides common information and referral services for each provider in the network. Since the isolation experienced by family day care providers is a major problem, the network provides opportunities for them to meet to discuss mutual concerns and to provide peer support for each other. Networking can also increase their effectiveness by providing joint training both in the home and off site and by utilizing self-audits to assure that quality care is provided.

Other areas in which the network can assist the provider are with information to members on structuring the activity as a small business; health and liability insurance; equipment; group purchases of equipment; food or services to benefit from economies of scale; or back up support when the provider has an emergency and is unable to care for the children.

HDS has funded two projects in the past three years which have addressed networks of family day care providers. The findings of these projects should be considered in developing applications to identify good approaches for maximizing the availability of family day care:

- Child Care Dallas developed an employer-assisted family day care home system as a new approach to increase the availability of care for infants and toddlers. More information on this project may be obtained from Madeline Mandell, Executive Director of Child Care Dallas, 1499 Regal Row, Suite 400, Dallas, TX 75247 (214) 630-7911.
- The Governor's Commission for Children and Youth in Mississippi developed a family day care network which utilizes retired individuals as the care providers. More information on this project may be obtained from Neilly Hutchinson, Governor's Commission on Children and Youth, 301 W. Pearl Street, Jackson, MS 39203-3093 (601) 949-2000.

Applicants should refer to the description of the concept of "franchising" described in the preamble to this announcement. Applicants should determine which model would be most appropriate to replicate in their community or should propose other approaches which meet the purposes of this priority area. A total of five projects will be funded at $30,000 each per year for a project period of up to 24 months.

Topic 2.6: Dissemination of Material on Self-sufficiency

A pool of innovative program ideas has resulted from the numerous research and demonstration projects which have been funded by both foundations and HDS. However, these innovations have yet to be successfully transferred to the practitioner and policymaker and utilized for the benefit of needy target populations. The inadequate knowledge transfer, utilization and application activities are recognized as a major problem area and one where foundations and HDS can join together to create a greater impact.

HDS will cooperate with foundations in the dissemination and utilization of the most exemplary and successful programs for maintaining the elderly and the developmentally disabled in their own homes for as long as possible.

The Robert Wood Johnson Foundation is considering a national program to demonstrate whether a private market exists for a coordinated set of supportive services, such as shopping, housekeeping, companionship, home repair, and financial planning, that ultimately will pay for itself.

The Retirement Research Foundation has and continues to support multiple demonstration projects designed to keep older people in the community. The range of issues addressed include the organization and financing of long-term care, issues of guardianship and protective services delivery, coordinated delivery of homebound services and approaches to identification and care of abused elederly.

As a primary goal in its program for the elderly the Florence V. Burden Foundation wants to help older Americans remain in their homes. In the past, the Foundation has provided start-up funds for model programs in hospice care, at-home health care, respite care, foster care and shared housing. The Foundation has also invested in studies of home equity conversion and private insurance for long-term care. Currently, the Foundation is especially interested in protective services and financial management services which allow the elderly to remain in their homes through the least intrusive means.

The J. M. Foundation has extensive experience in the development of in-home care models and related rehabilitation services for the developmentally disabled. The Foundation's current priority is to encourage the implementation of these improved services in all communities.

During the FY 1985 Coordinated Discretionary Funds Program, HDS funded a number of projects under a priority area titled "Consumer-directed Preventive Services." These projects are focused on reducing inappropriate use of guardianship and care by encouraging consumers or their representative groups to develop life service plans that assure consumer choice in future arrangement for delivery and financing of social and protective services in advance of a life crisis. In addition, innovative programs have been funded by other Federal agencies such as the Health Care Financing Administration, the Veterans Administration, the National Institute on Aging, and the National Institute for Mental Health.

HDS seeks applicants to assist in the dissemination and utilization of exemplary community-based, in-home services projects, such as those described in the examples above. Successful applicants will have taken an eclectic approach in the dissemination and utilization activities which they propose.

It should incorporate the most appropriate promotional and marketing techniques. The applicant will be expected to work closely with participating foundations, HDS, national organizations and State and local community service networks which wish to take advantage of the latest innovations in community-based in-home services to assist the elderly and developmentally disabled to remain in their own homes.

The applicant will be expected to produce appropriate documents, hold workshops, provide forums, print newsletters and utilize state-of-the-art techniques in marketing to promote dissemination and utilization of successful programs. Applicants will serve as a technical assistance resource to local grantees within communities for the purpose of adapting practices to meet their needs.

The following foundations will consider cooperating with HDS and will consider jointly funding a single project from this area: Florence V. Burden; J. M.; Retirement Research; New York Community Trust; and Robert Wood Johnson. Proposed projects must show progress over a three-year period in moving toward self-sufficiency. The HDS and foundation share of the project cost will decrease each year with the expectation that the project will generate 100% of the required revenues in the fourth project year.

Area 3: Promotion of Housing Alternatives and Living Arrangements

Topic 3.1: Living Arrangements for Individuals with Developmental Disabilities

While substantial progress has been made in developing suitable community-based residential programs and in placing persons with developmental disabilities appropriately in these facilities, greater efforts are needed to promote the integration of persons with developmental disabilities into the community. Recent surveys on residential care for the developmentally disabled have shown that:

- Of the estimated 105,000 persons left in institutions today, most are severly and profoundly handicapped.
- 40% of residents in licensed residential facilities are mildly and moderately retarded, and potentially could move to less restrictive (and less costly) semi-independent or self-sufficient living programs.

Specific guidance on the topic of living arrangements for the developmentally disabled has also come from the recently published Pennhurst longitudinal study. Among its recommendations are:

- Development of smaller, more normal living arrangements for developmentally disabled individuals exiting from institutions.
- Improvement of working conditions, compensation and training of community residential service staff to cope with the needs of more seriously disabled persons.

Distinctive features of community-based residential living facilities vary along a number of dimensions including size, facility operator, level of supervision, staffing and nature of habilitation emphasized. Still to be developed are new, cost-effective models based on individual needs that fill gaps in the continuum of service options for people needing different levels of residential care. If the range of services offered does not truly meet the needs of consumers, then those individuals will not make maximum progress in a minimum amount of time. HDS is interested in research and demonstration projects which address each of several key issues. Topics on which proposals are sought include:

- While research findings suggest that the placement of mildly, moderately and severely retarded people in community-based settings is associated with the acquisition of adaptive behavior skills, it is not apparent that the same relationship holds for profoundly retarded people.

There is a dearth of evidence associating changes is adaptive behavior of profoundly retarded persons to smaller residential placements, as detailed in the recent UAF Technical Report, *Residential Services for Adults with Developmental Disabilities*. As opportunities are being made for profoundly retarded people in small community settings, data need to be developed to guide providers, decision-makers, program planners and administrators in evaluating and modifying existing programs and designing appropriate new ones.

• Semi-independent living programs (residents have their own living quarters with staff nearby in another unit) facilitate deinstitutionalization through their emphases on teaching specific skills to promote transition to more self-sufficient living. Furthermore, the efforts of States to move severely/profoundly impaired people into community settings with high levels of suppervision can be greatly assisted by moving mildly/moderately impaired individuals into less highly supervised settings, thus increasing the availability of existing community sites.

Demonstrations are needed to further explore the potential for developmentally disabled people to profit from semi-indepent living training programs and to foster the transition of the developmentally disabled through community programs from higher to lesser levels of supervision.

• In supported living arrangements, clients have their own homes or apartments and are responsible for their own day-to-day activities. Depending on the clients' needs, these programs provide training and counseling staff who provide assistance with problem solving, budgeting or crisis intervention. While it is evident from reports of State program agency personnel that there has been substantial growth in supported living, no data exist on the utilization of these programs nationally. To fill the void in our knowledge base in this area, research is needed to document the extent of utilization and level of success in existing programs, to explore needed modifications and to design new programs for nationwide replication.

• Changes in residential care in recent years indicate a strong growth trend for small group residences and a continuing decrease in the population of very large facilities. However, there is substantial variation among States in how and in what types of smaller group residences are developed and funded. A principal challenge to the continued evolution of group residences from large to small is the development of greater numbers of programs and the training of additional personnel to provide high quality services to severely/profoundly impaired people in community settings. There is a need for demonstrations of model practices and training programs to increase the capabilities of generic professionals (physicians, nurses, dentists, social workers, recreation specialists, policy analysts and others) to offer their services to developmentally disabled people in the community.

• Group homes, although a rapidly growing and popular alternative to institutionalization, are experiencing significant problems in a variety of areas, including administration and management. For example, group home residents have been found to return to institutions at a higher rate than that of persons in other residential alternatives. High staff turnover, maladaptive behavior among residents, and funding problems are also not infrequently associated with this mode of residential living. Projects are needed to explore ways in which group homes can be improved; to identify those administrative practices and organizational features which distinguish those most effective homes; and to determine the factors which contribute to the development of community living skills among residents.

There are no eligibility restrictions for applications in this priority area. HDS will accept applications for multi-year projects not to exceed three years.

Area 4: Preparation for an Aging Society

The rapid growth of our older population and the projection for its continued growth make it imperative that societal institutions, families, communities, and individuals prepare appropriately for an aging society. Such preparation must recognize and respond to the fact that older people are significant contributors to society as well as recipients of services when necessary. In order for our nation to prepare younger adults, they need to perceive aging as a lifelong process, understand the changing social, health, housing, and financial needs in older age, and develop the skills to prepare themselves, through lifelong planning, for the last decades of life. They also need to consider and prepare for their role as caregivers. Societal institutions need to adopt public policies that reflect the changing nature of our older population. Neighbors and communities need to respond to demographic changes.

HDS is interested in developing meaningful programs that will stimulate such preparation for an aging society.

Topic 4.1 Planning for Later Life

By the year 2025, it is projected that one of every four Americans will be 65 years or older. A number of things need to be done to prepare today's young and middle age adult population for extended active life spans, many years of which will be spent as an "older American." For example, people need information about the aging process and the options for their later years. They need to know the importance of appropriate advance personal planning, continued activity, and lifestyle adaptation to help them remain independent.

Adults, now in their thirties, forties and fifties, need to begin to plan for the social, health housing and financial needs of the sixth, seventh, eight and possibly ninth decade of their life. To do this, it is necessary to know what the different age groups today know about aging, what the gaps in knowledge are and what the best methods are to fill these gaps. Some research already exists in the former area but almost none exists in the methods to help adults prepare adequately for their later years.

Projects are solicited that identify ways to prepare adults in their thirties, forties and fifties to plan effectively for their social, health, housing and financial needs in later life. Projects should:

(1) Synthesize existing research and information, including the work being done by the National Academy of Sciences and a recent Louis Harris survey, regarding the age-related perceptions of the various age groups;

(2) Identify the gaps in knowledge that exist in today's various age groups regarding what actions they might resonably adopt in an early stage of live, to better prepare for their own aging;

(3) Develop and pilot test approaches for changing both the perceptions and behaviors of the differing age groups; and, finally,

(4) Develop innovative methods for the transfer of project findings. The pilot tests must be carried out only on a Statewide or large metropolitan area basis.

Projects in this priority area are limited to $200,000 per year for a maximum duration of 24 months. There are no eligibility restrictions for applications in this priority area.

Topic 4.2 Future Needs, Programs and Personnel Requirements

The Order American Act Amendments of 1984 authorize the Administration on Aging to establish

and maintain a demographic data base on the older population for the purpose of formulating public policy. Considerable effort has been made to gather and assess descriptive data on the characteristic of older persons and their needs. Extensive demographic information on the nation's older population has been derived from the 1980 census and surveys conducted by the Social Security Administration and the National Center for Health Statistics, among others.

Data on the characteristics of the elderly population also has been tabulated by State and local jurisdictions, and made available to State and Area Agencies on Aging. While these data are valuable, there is a need to demonstrate how they can be applied to the development of public policies for the benefit of older Americans in the future. Increased responsivencess by societal institutions over the coming decades to the aging or our society—its opportunities and challenges—depends upon knowledgeable public debate. That future policy agenda can be shaped significantly by accurate forecasting models and insightful analyses that are useful to decision-makers.

Applications are invited which will demonstrate ways to link available data on the elderly and predictive information on the future needs and benefits of an aging society to the formulation of public policies. Applications should undertake a comprehensive research effort resulting in a set monographs that:

(1) Analyze the effects of demographic, social, economic and other trends on the future status and needs of the older population over the next 25 years;

(2) assess the nature, scope and types of programs required to meet the predicted needs of the growing number and changing nature of the older population;

(3) Identify the kinds and number of personnel required to carry out such programs; and

(4) Examine the policy issues that must be dealt with in preparing for an aging society.

Projects in this priority area may request a maximum of $200,000 per year for a maximum duration of 24 months. There are no eligibility restrictions for applications in this priority area.

Topic 4.3. Aging Manpower Studies

The field of aging will continue to grow rapidly in the next 20 years as the number of older persons continues to increase. There is a need to ensure that adequate numbers of trained personnel are available to provide direct assistance, plan and coordinate a variety of services to the elderly in areas such as health, housing, mental health, income, transportation, nutrition, advocacy, information and referral, and education. AoA has an important role to play in designing and supporting appropriate training programs for personnel in aging. In assuming this rule, AoA needs to collect, analyze and maintain data on existing and future manpower needs in the field of aging.

Applications are solicited for manpower studies in the field of aging to answer several or all of the following questions, including:

(1) What do existing manpower studies of professional and paraprofessional fields show as the current and future need for personnel trained in aging;

(2) What are the current and future manpower needs in professional and paraprofessional fields where data are not presently available;

(3) How many graduates with special training in gerontology find full-time, appropriate level employment in the field of aging;

(4) How many current gerontology students intend to seek employment in the field of aging;

(5) In what agencies do persons trained in gerontology find employment;

(6) What job roles and responsibilities do persons trained in aging secure;

(7) For what amount of time do gerontology graduates who take jobs in the field of aging remain in the field; and

(8) How has training impacted on the work experiences of persons trained in gerontology.

Projects in this priority area are limited to $150,000 for a maximum duration of 17 months. There are no eligibility restrictions for applications in this priority area.

Topic 4.4 Service Delivery Implications for Suburbia

During the last decade, the number of older people living in the suburbs has increased, while the number of older people living in central cities has declined. The growth of the older segment of the suburban population has touched every major region of America. Not surprisingly, Myers ("Aging in Place," 1982) found that older people prefer to remain in the homes in which they have lived for years. Myers' theories and demographers' forecasts call our attention to the potential planning and service delivery problems of an aging suburbia. Traditionally, service delivery systems in suburbia have addressed the needs of young families. However, due to emerging trends, questions about delivery of services to older persons in suburbia now need to be answered.

Applications are solicited which purpose to:

(1) Collect and analyze data on both the future potential needs of those older people who will remain in suburbia and the resources they offer to society;

(2) Propose strategies for assisting such older persons to remain independent as long as possible and for improving service delivery systems for the suburban elderly; and

(3) Develop innovative methods for the transfer and utilization of project findings which include the involvement of local officials.

Proposals should address questions such as: What implications do these trends pose for local governments? What impact will a large suburban elderly population have on service delivery systems, such as social services, transportation and health? What models of assistance can be identified or demonstrated? What impact does the high level of home ownership in suburbia and the potential for home equity conversion of these homes have on strategies for maintaining the independence of suburban older persons. Proposals should also be designed to determine how the nature and quality of services for today's suburban elderly can be improved to meet the needs of future elderly. Proposals should consider how churches, synagogues, libraries, schools, shopping centers, other community facilities, and older people themselves can assist future elderly suburbanites to maintain their independence. Finally, proposals should suggest ways to enhance the linkage between the aging network and elected policy-makers.

Projects in this priority area are limited to $150,000 for a maximum duration of 17 months. There are no eligibility restrictions for applications in this priority area.

Topic 4.5 Preparing Major Social Institutions for an Aging Society

The growth of the elderly population is an unmistakable demographic phenomenon with profound implications. The population 60 and over is expected to increase approximately 27 percent and represent 17 percent of the U.S. population within the next 20 years. Insufficient attention has been accorded to helping major social institutions prepare for changes which will be brought about by the "graying" of American society.

Applications are solicited to launch Statewide public education campaigns

designed to sensitize appropriate major institutions in the State to the social, political and economic implications of an aging society. These campaigns should target on the media, colleges and universities, elected officials, professional organizations and any other public or private group or institution that play a role in the formulation of attitudes, policies and programs affecting older persons. The focus of these educational campaigns should be on the trends in the aging population, their probable impact on American society in the year 2000 and beyond, and the roles that institutions can play in order to have a positive impact on the lives of older Americans. Outcomes should emphasize program changes that will have lasting benefits for older persons as contributor to their communities as well as recipients of services. Each applicant for such a Statewide campaign must demonstrate that their State Agency on Aging has been involved in the design of the proposed campaign and will play an appropriate role in its implementation.

Projects in this priority area are limited to $200,000 for a maximum duration of 17 months. There are no eligibility restrictions for applications in this priority area.

Area 5: Foundations/HDS Partnerships

In developing this year's Coordinated Discretionary Program announcement, HDS met with a number of foundations to discuss the potential for broadening the range of cooperative efforts in addressing areas of mutual interest. Foundation leaders responded positively to issues presented by HDS and shared ideas regarding priorities they were pursuing and recommended approaches that the Federal government should consider.

From this process emerged a flexible relationship in which foundation officials can participate in the review, selection, and management of grants and HDS staff can reciprocate in some of these same areas. Specific areas of mutual interest are reflected in previous sections of this announcement and foundations interested in particular priority areas have been identified.

5.1 Challenge Grants to Community Foundations

Community foundations are usually limited to making awards in specific cities, counties, or States. They are generally interested in "grassroots" community or neighborhood-focused efforts. HDS encourages proposals that reflect any of the foregoing priorities in this announcement or other topics of community interest, and is willing to match, on a 50/50 basis, four or five projects sponsored by community foundations.

Applications under this section may be accepted from foundations, or from potential grantees who have received assurances from community foundations that they are willing to participate. All applicants must agree that abstracts of their proposals are available for replication and distribution to foundations that may be interested in funding, cooperating with, or collaborating in areas of mutual interest.

5.2 Announcements by Foundations

Several foundations have either already made announcements or may be making announcements during the next year (August, 1985 through July, 1986) for projects of national scope that closely relate to priority areas that HDS is pursuing and are reflected in this **Federal Register** announcement. The projects and Foundations are:

1. National projects are being considered by the Robert Wood Johnson Foundation to improve access to supportive services for the frail elderly to help them remain in the community. HDS would agree to participate in the public housing component of the RWJ program by participating in the funding of 2 or 3 public housing sites. Funding would be made on a declining basis each year, with the goal of making the services self-sufficient at the end of the project period. This paragraph is included only to alert prospective applicants to a possible announcement by the Robert Wood Johnson Foundation. Applicants should not submit materials to or make inquiries of either the Robert Wood Johnson Foundation or HDS at this time.

2. The Dole Foundation provides modest sized grants for the purpose of promoting greater economic independence for persons with disabilities through competitive employment. Eligible projects should show measurable impact on employment at the community level. HDS may jointly fund 2 or 3 projects from this announcement that meet the Administration on Developmental Disabilities' as well as the Dole Foundation's priorities.

For further information contact: The Dole Foundation, 220 I Street, NE., Washington, DC 20002.

HDS and the foundations will consider jointly funding selected projects described above. However, the applications will be processed through the foundations and there is no need to send foundation application to HDS. For those projects seeking HDS participation in funding, HDS will need to know of an applicant's intent to apply to the foundation. Therefore, HDS requests that when such an application is submitted that HDS is notified by writing to Richard E. Shute, Director, Office of Program Development, Office of Human Development Services, Room 704E, 200 Independence Avenue, SW., Washington, DC 20201.

The notification should include applicant's name and address, project title, foundation name and subject of announcement.

II. EFFECTIVENESS AND EFFICIENCY OF STATE AND LOCALLY ADMINISTERED SOCIAL SERVICES

Area 6: Strengthening the Functioning of State and Local Agencies and Tribal Governments

Topic 6.1: Management and Planning

6.1.A Models for Using Results Oriented Management

There is an increasing emphasis among State, Tribal and local human service executives on the costs and benefits of social services. Management issues which are subsequently being raised include:

- Benefits of providing for identification of expected client outcomes;
- Collection of program performance and actual client outcome data;
- Utilization of these data as a tool for improving staff performance; and
- Communication to policy makers and the tax paying public of the results of programs paid for with tax dollars.

The technology for establishing client and program outcome indicators is well developed and the increased availability of micro-computers has greatly enhanced States' ability to collect and analyze data.

Although HDS funded two major demonstration projects in the area of results-oriented management in the past five years which helped to identify cost and practice implementation issues, further evidence is needed of the short and long term benefits and problems associated with the use of client outcome measures with particular emphasis on their utilization over time by decision makers. We are interested in determining whether such measures are useful to managers and policy-makers in the long run and whether their use improves service and client outcomes.

HDS will support demonstration grants to States and localities who have already begun implementation of client outcome or results-oriented management systems. HDS funds will

not be used for initial development of measures and data collections systems but rather for the purpose of strengthening and stimulating creative approaches to using the outcome data to improve service delivery to support management and executive level decision making, and for reporting to the public on the results of programs financed by their tax dollars. Support for consortiums of States and localities seeking to critique and improve currently existing systems would also be considered.

It is expected that projects funded will provide: (1) Successful models for the utilization of client outcome measures to improve services, decision-making, and public information; (2) case histories of the implementation and utilization process; (3) improve measures of client outcome in a variety of human service areas; and (4) a cadre of States and localities with experience in the utilization of client outcome measures to serve as a resource to others in the field.

Eligibility is restricted to State, Tribal governments and local agencies in this priority area.

6.1.B Develop and Disseminate Information on Innovative Planning Models

Past human services planning efforts have too often been characterized by the absence of a clear, effective relationship to management, decision-making, and service delivery. In these circumstances, even excellent technical or analytic activity has little chance of influencing policy.

Under the New Federalism, some legislative and most regulatory requirements for planning have been eliminated. As a result, State and local governments now have unprecedented flexibility to engage in planning that is meaningful to their particular needs and environment rather than merely complying with a Federal requirement.

In the past five years, instances of exemplary planning have emerged and have been documented in several HDS-sponsored research and demonstration efforts. Examples of exemplary planning include: the Negotiated Investment Strategy used by both the State of Connecticut and the city of Columbus, Ohio; State-level human services policy planning in Iowa, Utah, Vermont, New Hampshire, North Dakota, and Oklahoma, as well as local efforts in Pueblo, Colorado and Charlottesville, Virginia; developmental disabilities planning in Minnesota and South Carolina; and planning for aging programs in Wisconsin and by the Denver Council of Governments.

HDS has identified a number of issues in the emergence of exemplary human services planning efforts. These issues include, at a minimum: (1) The expansion of public agency staff planning capabilities through linkages with the private sector as well as with citizen groups; (2) the identification of innovative models of leadership for planning not tied solely to some of the more transient aspects of the situation, such as the charisma of one individual; (3) the creative and innovative use of techniques for data collection, analyses and presentation to enhance their utility to management for planning and policy purposes; and (4) the use of effective planning processes to help deal with controversial subjects so that management options can be proposed and policy decisions made.

Research efforts sponsored by HDS and others have documented several models of effective planning. There is now interest in disseminating these models and in transferring them to similar organizations at the State, Tribal and local level.

Options for dissemination include workshops, peer match, and links to existing networks. At a minimum, applications for dissemination must highlight models which demonstrate one or more of the following characteristics: employment of innovative analytic and data collection techniques, demonstration of sustained operation, expansion of planning beyond the traditional boundaries of categorical programs and actual use by management to make specific and important decisions.

In addition to dissemination, HDS is interested in the transfer of one or more particularly exemplary planning models or analytic techniques from one jurisdiction to another. Applications are particularly encouraged from consortia of State and local jurisdictions where there is a commitment to both transfer and receive the exemplary planning/analytic model.

Preference will be given to agencies with established responsibility for administering HDS programs and a demonstrated record in exemplary planning.

Topic 6.2: Programs for the Aging

6.2.A Collaborative Efforts to Promote Systems Change to Improve the Lives of Older Americans

Communities must be prepared to respond to the challenges ahead in view of the rapidly increasing numbers of persons 60 years of age and older. Those who work with and for older people must assess their programs to date and consider new, innovative and more effective approaches that will result in systems change at the community level designed to improve the circumstances of older persons, especially those in greatest economic and social need.

It is imperative that State and Area Agencies on Aging strengthen their leadership capacity to work together to broker and coordinate a wide array of services and activities on behalf of older persons. Equally important, partnerships need to be formed at the community level with other public and private sector organizations to promote systems change that will enhance the lives of older persons, stimulate cost-effectiveness of activities, and insure that older persons remain independent in the mainstream of American life. Many private sector entities, including businesses, corporations, non-profit organizations, religious groups, civic associations, voluntary organizations, foundations, and other groups, have resources and skills that could be directed toward improving services to older persons.

Applications are requested from State and Area Agencies on Aging that represent collaborative approaches among community agencies and organizations. Applications are to result in systems changes at the community level designed to improve the circumstances of older persons, especially those in greatest economic and social need. For the purposes of this announcement, systems changes include:

1. Improvement in service delivery mechanisms;
2. Joint planning between public and private agencies;
3. Community wide priority setting;
4. Collaborative allocation of resources; and
5. Integration of services for older persons with other human service systems in order to ensure greater access to services and more effective and efficient service delivery.

Highest priority will be given to proposals which:

1. Identify proposed systems changes and identify probable outcomes as a result of these changes against which the success of the project can be measured;
2. Show clear evidence of joint undertakings with public and private entities in order to improve significantly the circumstances of older persons, especially those in greatest economic and social need;
3. Propose a plan for the integration of aging services into the larger fabric of community life;

4. Show evidence of close working relationships between State and Area Agencies on Aging in the achievement of the objectives set forth in the proposals;

5. Build upon the strengths of informal supports, such as the family, friends, neighbors and others;

6. Demonstrate support from elected officials and relevant State and local agencies; and

7. Significantly involve older persons in planning and implementation.

The project period may be for up to 24 months. These awards are for one-time only projects and no project will be supported beyond 24 months. Notwithstanding the ceiling on project cost stated elsewhere in this announcement, applicants under this priority area may apply for a level of funds as may be commensurate with the scope of work of the proposed project. Applicants are expected to provide a minimum of 25% in matching funds for each proposed project. No awards under this priority area will be made to support solely the direct provision of services. Funds may not be used for building construction or renovation. In addition, projects which propose only an extension of services to older persons, even though justified, will not be considered for funding.

Applications are restricted to State and Area Agencies on Aging.

6.2.B Statewide Elder Abuse Prevention Efforts

Recent legislation at both Federal and State levels has placed increased emphasis on efforts to prevent elder abuse. To carry out their roles in the area of elder abuse prevention, it is clear that State and Area Agencies on Aging must act in close concert with adult protective services agencies, the courts, law enforcement officials, consumer protection agencies, and voluntary groups.

Applications are solicited for projects that demonstrate model collaborative Statewide efforts on elder abuse. Such model projects should include: (1) Collaboration among State and Area Agencies on Aging, adult protective services agencies, the courts, law enforcement officials, consumer protection agencies, and voluntary groups; (2) public awareness campaigns to recognize and prevent the abuse, neglect, and exploitation of older individuals; and (3) coordinated action for intervening and following up on such reports by referring to social service agencies and to the criminal justice system, where appropriate.

The application must be submitted as a collaborative effort among the participating agencies. One of the joint sponsors, however, should be designated as the formal applicant.

Projects in this priority area are limited to $150,000 per year for a maximum duration of 24 months. There are no eligibility restrictions for applications in this priority area.

6.2.C Legal Assistance for Older Persons

Older persons often are unaware that legal assistance is available to them or find that such assistance is inaccessible or unavailable. Lack of income, lack of knowledge, and lack of system coordination may contribute to this problem.

State and Area Agencies on Aging are responsible for coordinating programs developed by local legal assistance providers that give legal advice, consultation and related services to older persons, particularly those with the greatest economic or social needs. To assist the network of State and Area Agencies on Aging in carrying out this responsibility, the Administration on Aging solicits applications from legal service organizations with proven expertise in laws affecting the elderly and experience in the delivery of legal assistance to older persons. Such applications must propose effective plans for enhancing the availability of legal services to older persons in close coordination with the programs provided State and Area Agencies on Aging. It is also important that all such applications under this section demonstrate better ways of delivering legal services to older persons with the greatest economic or social needs.

Such legal assistance support activities shall include, but not be limited to case consultation; training; provision of substantive legal advice and assistance; and assistance in the design; implementation and administration of legal assistance delivery systems. Older recipients should be involved in project planning and implementation.

Applications are also solicited that demonstrate innovative and effective ways of delivering legal assistance to older individuals with the greatest social or economic needs.

Projects in this priority area are limited to $150,000 for a maximum duration of 17 months. There are no eligibility restrictions for applications in this priority area.

6.2.D Increasing Minority Elderly Access to Services

Under Title III of the Older Americans Act, a priority has been assigned to the provision of services "to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals . . . ". Recent reports from State and Area Agencies on Aging show a slight decline in Title III program participation rates for minority elderly. There are variations among minority elderly populations in participation rates, which need to be taken into account in developing solutions to the problem. In addition, a careful determination must be made as to whether lower minority participation rates are temporary phenomenons or long-range trends. Effective action to reverse the decline in minority participation rates needs to differentiate among the particular minority elderly groups, as well as enlist the cooperation of the appropriate minority elderly organizations and State and Area Agencies on Aging. Effective action must be based on the advice of minority elders themselves.

Applications are requested from organizations representing minority groups, working with State or Area Agencies on Aging, for model projects designed to better target services to minority elderly and to increase their access to Title III programs. Such models should differentiate among minority elderly populations in analyzing the causes of the recent decline in minority elderly participation; design steps to be carried out by State or Area Agencies on Aging to reverse that decline, including possible relocation of service sites; specify measurable outcomes, provide for an independent evaluation of the results of such action; and provide for a vigorous dissemination and utilization effort, should the model prove to be successful. Applications must demonstrate organizational partnerships that include State or Area Agencies on Aging and minority elders.

Projects in this priority area are limited to $200,000 per year for a maximum duration of 24 months. Applications in this priority area are restricted to organizations representing minority groups.

Topic 6.3: Programs for Native Americans

6.3.A Improvement of Effectiveness and Efficiency of Tribal Governments and Native American Organizations

The Tribal and Native American Cooperative Management Initiative (CMI) was initially focused on the administrative aspects of coordination of HDS grant programs. It is now time to move the CMI concept beyond HDS

grants to better coordination with other Federal programs outside of HDS. Model approaches are needed that will stimulate increased integration and coordination of all services and programs impacting on tribal communities.

The tribal government or Native American urban community is considered to be in the best position to weigh the trade-offs in deciding on the most appropriate local model for centralized planning and management.

Applications are requested from Tribal governments and Native American organizations that focus on CMI coordination techniques and to improve the coordination of resources across the multiple Federal programs. These techniques, taken together, should result in a more comprehensive service system which will involve a greater array of Federal programs.

Eligibility is restricted to Tribes and Native American organizations. Up to 16 grants will be awarded at $20,000 each on a one time basis to put the system in place.

6.3.B Demonstrations for Tribal and Urban Native American Community Development Technology Transfer

A variety of new conceptual frameworks are emerging in Tribal and urban Native American social and economic development strategies that will produce long-term results for self-sufficiency. These achievements have resulted in specific small business development ventures which need to be shared with other Native American entities.

Applications are requested for demonstrations for the technology transfer or the dissemination of results and findings, examples, and studies to all Native American entities of Tribal and urban community development ventures such as:

- using the methods of private development in small business finance, production, marketing, and management in Tribal communities and in urban corporations to achieve public purposes;
- Tribal and urban investment opportunities through professional assets management methodologies; creative strategies for generating private sector funds for capitalizing Tribal and urban community development projects for social and economic self-sufficiency;
- Specific applications of private sector investment community perspectives to Tribal and urban Native American development;
- Linkages and how to expand them with private sector firms which actively promote minority entrepreneurship;
- The benefits of franchising and specific Native American examples that will result in franchises; and,
- Innovative strategies and trends for the future in export trade and economic diversification, and strategies for competition in the Pacific Rim export market.

Preference will be given to applications which include measurable outcomes such as number of jobs or expected revenues. Applications under this priority area are restricted to Tribal governments and Native American organizations. However, they are encouraged to partner with other public and private sector entities in these applications.

Topic 6.4: Demonstrations to Improve the Effectiveness of the State Protection and Advocacy System for the Developmentally Disabled

The rapid expansion of State developmental disabilities protection and advocacy systems and the concurrent increase in their statutory responsibilities have created new problems as well as opportunities for these systems. The Developmental Disabilities Act of 1984 emphasizes protection and advocacy system responsibility to provide information and referral services, as well as making States responsible for providing additional powers to their Protection and Advocacy system for accessing and serving persons in institutions, ICF/MRs and other residential facilities.

With this new authority comes a need for increasingly sophisticated approaches to advocating for the most severely disabled and underserved members of the developmentally disabled population.

In keeping with a desire to meet new responsibilities, and as specified by the legislation, HDS is interested in demonstration projects which are designed to improve the effectiveness of the State protection and advocacy system. Emphasis will be placed on projects which expand or enhance services to persons who are multihandicapped or disadvantaged, including Native Americans, Native Hawaiians and other underserved groups. Demonstration projects with State protection and advocacy systems are sought which place high emphasis on dissemination and knowledge transfer, with particular emphasis placed on the use of expertise existing within the Protection and Advocacy system. HDS will accept applications for multi-year projects not to exceed two years.

Area 7: Improving Management of Human Services

Topic 7.1: Reducing Foster Care Entry/Reentry Rates

Recently, there has been an indication that the national trend in the reduction of the number of children in foster care (under the care and custody of the State public child welfare agencies) is slowing. This changing trend appears to result from a situation in which the number of children who enter the foster care system exceed the number of those who leave the system during a given year. Because of a high rate of recidivism, the children who enter the foster care system are not necessarily first time entrants.

HDS is concerned about this trend, and therefore will support research concerning the rates of entry and reentry into the foster care system. The primary objective of this research effort is to develop an effective prevention strategy which could contribute to a reduction in the number of children entering the foster care system and a decline in the recidivism rate. HDS is also interested in assessing pre-placement preventive practices, especially through comparative analyses of current practices among States and counties in the U.S.

The research project would survey the possible sources of data (including VCIS and CWMSET), identify States with unusually high or low performance, and analyze the program and policy differences among States and localities that affect performance in the foster care area.

The study should look beyond quantitative performance numbers and consider other factors for protecting the interest of the child. For example, if the analysis shows that certain characteristics of the child or family involved tend to lead to a high rate of recidivism, a State or locality could concentrate its efforts to those most in need.

Topic 7.2: Evaluation

Over the past several years, many evaluation studies have produced results that have contributed to changes in program policies and operations. These evaluation studies have been sponsored or conducted not only by HDS, but also by other agencies of the Department of Health and Human Services, other Federal agencies, States and localities.

7.2.A Evaluation Syntheses

The focus of this year's announcement is on the synthesis of the results of

previous evaluation efforts around specific topical areas. These syntheses will analyze the various evaluations of a program or program-related area, summarizing the positive and/or negative findings, follow-up on how the results were implemented (or why not), which of the results are still candidates for implementation if they have not been implemented, and what types of additional evaluation studies should be done in the topical area, or in cross-cutting evaluations. HDS is particularly concerned that the topics chosen for synthesis reflect the needs of the people and organizations who use the evaluation and related research. Applications should therefore reflect a process for involving the executives who would be responsible for implementing changes indicated by evaluations in the choice of topics. The product of these topical syntheses should include detailed descriptions of the best practices of existing programs so that States, communities or organizations that want to start or improve one of their programs can use practices from proven projects.

Applications will be evaluated according to: (a) The process proposed for involving officials responsible for change in the choice of topics; (b) the importance of the topics chosen for synthesis; and, (c) the process proposed for implementing changes indicated by the synthesis.

7.2.B Integration of Evaluation Components in Management Systems of State and Area Agencies on Aging

HDS has funded a number of projects to design and test and implement evaluation systems. However, these systems and their findings have not been integrated into planning and management operations to influence policy, resource allocations, and other management decision processes.

For the purpose of application development under this priority area, evaluation is defined as the measurement of program performance (efficiency, effectiveness, and responsiveness), the making of comparisons based on these measurements, and the use of the resulting information in policy-making and program management.

Applications are requested which promote the integration of evaluation components into the management and leadership roles of State and Area Agencies on Aging in coordinating community-based service systems for older persons. Priority will be given to applications which demonstrate the use of previously tested evaluation models and adapt them to the planning and management of programs administered by the sponsoring State or Area Agencies on Aging. The use of tested evaluation models for automated management information systems may require adaptation of computer software to translate manual systems into computer language. Such limited software development, if necessary, could be included in the proposed application. After demonstrating the integration of evaluation components, proposed projects should include a major dissemination effort to transfer the demonstrated models to State and Area Agencies on Aging.

Projects in this priority area are limited to $150,000 for a maximum duration of 17 months. There are no eligibility restrictions for applications in this priority area.

Topic 7.3: Use of Modern Technology in Aging Services

Management improvement among State and Area Agencies on Aging and service providers has been a priority concern of the Administration on Aging for several years. Assessment of the quality of management in aging programs suggests improvements in areas such as contracting, group purchasing, meal preparation and delivery, record keeping, eligibility determination, and site selection. Many proven management practices in the private sector have enhanced efficiency and effectiveness and have frequently resulted in increased service availability.

HDS has supported development and testing of a wide range of models, drawn from experience in both the public and private sectors, to improve various aspects of agency management. There have been multiple management information system projects relating to planning and decision support systems. Other management projects tested models for performance based contracting and use of group purchasing. These models are part of ongoing operations in many State and Area Agencies on Aging and service providers. There are many agencies, however, which need to make similar management improvements to carry out effectively their leadership roles. To encourage more widespread communication of the available knowledge, to stimulate replication of successful models and to expand creative applications of technology, there is a need for substantial transfer of management improvement strategies and models to State and Area Agencies on Aging and service providers.

HDS is interested in funding applications which propose innovative methods for transferring management improvement strategies and models from the private as well as the public sector to State and Area Agencies on Aging and service providers. Applications should provide for the dissemination of available knowledge, stimulate replication of successful models, and expand the use of creative applications of technology.

Projects in this priority area are limited to $150,000 for a maximum duration of 17 months. There are no eligibility restrictions for applications in this priority area.

Topic 7.4: Manpower Utilization in Human Services Agencies

There are at least half a million professionals in public human services systems, and an unknown number of paraprofessionals and volunteers. With an increasing need to manage human services effectively and efficiently, it is important to determine how paraprofessionals and volunteers can be used to free professionals to perform those tasks that require their skills and to reduce overall manpower costs.

At present, there is relatively little information available about career patterns, education and experience and the impact of their backgrounds on the types of responsibilities workers assume. This need for basic research inhibits the ability of State and local human services agencies to identify the types of people that agencies should be recruiting, hiring and training for different types of positions. This makes it difficult for educational institutions to provide agencies with the types of graduates that they need to carry out their mandates or to develop in-service training programs that agencies can use for paraprofessionals and volunteers.

HDS is seeking a comparative analysis of the functions for which selected States use professionals paraprofessionals and volunteers in a variety of functions. The analytical work should result in recommendations about appropriate mixes of workers and division of responsibilities as well as the type of experience, skills or training that is most indicative of performing well in a human services agency.

There are no eligibility restrictions for applications in this priority area.

Area 8: Child Welfare Services Training

The proposed training should address specific child welfare issues that have been identified by State and local agencies as critical training needs, and should be designed to upgrade the knowledge and skills of workers

currently employed by child welfare agencies.

Eligibility is limited to public and private non-profit colleges and universities which are accredited by an appropriate accrediting authority.

Applicants for grants in priority areas 8.1, 8.2 or 8.4 must show evidence of State or local agency participation in the development and implementation of the training program.

An indirect cost rate of 8 percent or the direct costs (or the institution's actual indirect cost if less than 8 percent) is allowable under priority areas 8.1, 8.2 and 8.4. Budget requests that exceed the 8 percent indirect cost limitation will disallowed.

All applications submitted under this subpart area (except 8.3 and 8.4 Traineeships) should include funds to send at least one key person to one national meeting of all Child Welfare Training Grant Projects in Washington, DC.

Applicants must apply under 8.1, 8.2, 8.3 or 8.4, not under the general Area 8.

8.1 Child Welfare Practitioner Training

Practice-oriented in-service training projects designed to expand and improve the knowledge and skills of child welfare service providers and allied professional staff. Training will focus on critical child welfare needs and problems identified by State agencies, and may include training in the use of computer-assisted decision-support systems. HDS anticipates funding approximately ten 17-month projects having a total value not to exceed $105,000 per project.

8.2 State Training Assistance Projects

Training and technical assistance projects designed to strengthen or expand the capacity of State and local public agencies to provide on-going training and staff development activities for child welfare personnel. HDS anticipates funding approximately ten 17-month projects having a total value not to exceed $65,000 per project.

8.3 Child Welfare Traineeship Projects

Financial support of education and professional training for students pursuing graduate or undergraduate social work degrees in the field of child welfare. The curriculum may include training in the use of computer-assisted decision-support systems. HDS anticipates funding approximately twenty-five projects of up to 24 months having a value not to exceed $35,000 per project, per year. Traineeship grants may be used to provide student financial support (tuition and/or stipend) only. Funds cannot be used for direct or indirect costs of the applicant organization.

8.4 Indian Child Welfare Training Projects

Applicants interested in training projects, following the descriptions of priority areas 8.1, 8.2 and 8.3, specifically related to Indian Child Welfare Services should apply under the following specific priority areas: 8.4.A, Practitioner Training; 8.4.B, Tribal-State Training Assistance; and 8.4.C, Traineeship Projects.

HDS anticipates funding approximately ten projects under this topic. For the duration and value of the projects, see topics 8.1 through 8.3, as appropriate.

Area 9: Education, Awareness, and Training in Aging

9.1 Professional Training Programs

There are a wide variety of professionals and paraprofessionals occupations which significantly impact the lives of older people. The Administration on Aging seeks to expand the number of persons in those occupations that affect the elderly who have been properly trained to meet the unique and special needs of this segment of our population. This goal is especially important in light of the projected significant increase in the numbers of older persons in American society.

9.1.A Statewide Short-term Training and Continuing Education for Professionals

Short-term and continuing education and training opportunities must be available for persons currently working in occupations that significantly affect the elderly. With the continued growth of the elderly population, opportunities must be provided to continually upgrade job knowledge and skills that increase the capacity of these professionals and paraprofessionals to serve older people effectively and compassionately.

Applications are solicited from colleges, universities, State Units on Aging; State professional organizations, and other appropriate entities within a State to provide continuing education and short-term training on a *Statewide* basis for professionals and paraprofessionals whose work impacts on the lives of the elderly. Proposals must indicate which profession is being targeted and provide written documentation of support for such training from State associations representing that profession.

All training activities proposed should be the result of collaborative planning between the applicant organization and the appropriate State Agency on Aging.

Applications should provide information on how existing training materials will be used as well as appropriate new educational technologies. Applicants should propose high quality and cost-effective training programs that will have Statewide impact and contribute in a significant way to the development of a capacity for ongoing professional and paraprofessional training in the State.

Applications may not propose training for individuals for whom the State Agency on Aging has primary training responsibility as described under section 308(a)(1) of the Older Americans Act, i.e., "short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this Act." Priority will be given to those applications that propose a match which goes beyond that required elsewhere in this announcement.

Projects in this priority area are limited to $200,000 for a maximum duration of 17 months. There are no eligibility restrictions for applications in this priority area.

9.1.B Aging Content in Professional Academic Training

There is a need to include aging content in the academic schooling of students preparing for employment in those professions that impact on the elderly population such as physicians, nurses, lawyers, pharmacists, etc. Grants will be made to State professional associations, institutions of higher education, or State Units on Aging to support career education and training activities that are preparing students for professions which heavily impact the aging population within the State. Each application must propose a *Statewide*, comprehensive and coordinated approach to impacting on the targeted professional training in the State. In every case where the State Unit on Aging is not the applicant, there must be written evidence that the State Unit on Aging has been significantly involved in and supports the design of the training proposal.

The applicant must give evidence that the proposed activity is in response to documented needs for aging content in the professions targeted for training. In addition, priority will be given to applicants that identify and adapt existing aging education and training curricula to the needs of the program.

Applications must include a plan to collect and report information on students participating in the proposed program. The information to be collected and reported at the beginning and end of the project must include: (1) The number of students in the program; (2) demographic characteristics of the students including such factors as sex, race, average age and geographic background of students (i.e., urban or rural); (3) the types of courses and practical experiences; and, (4) upon graduation, for each student, employment secured, additional training planned, and other related plans.

Projects in this priority area are limited to $200,000 for a maximum duration of 17 months. There are no eligibility restrictions for applications in this priority area.

9.1.C Development of New Aging Training Programs

Applications are solicited from qualified agencies, organizations, colleges and universities with established programs in aging to broker new aging education and training programs among educational institutions on an HHS regional basis. Applicants receiving awards would be expected to encourage and influence educational institutions to adopt a multidisciplinary approach to gerontological education and training.

Applicants should indicate which colleges and universities will be targeted in the HHS Region for assistance under this effort. Applicants should demonstrate an understanding of the needs of these institutions in establishing aging education and training programs. Activities proposed could include meetings with Presidents, Vice-Presidents, Deans, and other key administrative and faculty members to encourage the incorporation of aging content into existing curricula.

The application should include a schedule of proposed events with key university officials to encourage, influence and secure aging training and other activities related to preparing for an aging society. Highest priority will be given to those applicants proposing to transfer existing knowledge and model curricula and indicate how existing model curricula and other related materials is providing assistance to the targeted institutions. Awards for this effort to broker aging education and training programs will be made on a one-time-only basis.

Projects in this priority area are limited to $100,000 for a maximum duration of 17 months. There are no eligibility restrictions for applications in this priority area.

9.2. Minority Training and Development

Over the years, AoA has attempted to stimulate opportunities for training and employment of minorities in placement of minorities in management positions in State and Area Agencies on Aging. AoA will continue to foster these opportunities.

Applications are solicited from State and Area Agencies on Aging or other appropriate agencies and organizations to participate in a program to place minority college graduates, with educational backgrounds in gerontology, for work as interns in positions which impact on older persons. Applicants should indicate the procedures to be utilized for recruiting and selecting interns.

Priority will be given to those applicants that demonstrate the strongest possibility of permanent placement within the Agency or in another aging-related position. In contrast to instructions elsewhere in this announcement, AoA will give priority to those applicants which exceed the required 25 percent program match.

Projects in this priority area are limited to $150,000 for a maximum duration of 17 months. There are no eligibility restrictions for applications in this priority area.

Topic 9.3. Dissemination of Information to Caregivers

Most elderly persons in times of illness or frailty are cared for in their own homes by their families, neighbors or friends. These caregivers often need information to help them care for their older loved ones.

Applications are solicited to design and implement Statewide or large metropolitan areawide innovative knowledge transfer targeted on helping families, neighbors and friends care for frail and impaired older persons. Applicants may focus on such activities as the dissemination of specific materials; the conduct of educational forums; or the development and dissemination of innovative media materials. Priority will be given to those projects which focus on older persons as caregivers to their peers. Applicants are expected to fully involve relevant State or Area Agencies on Aging in all aspects of the project. Documentation of their involvement is required.

Projects in this priority area are limited to $150,000 for a maximum duration of 17 months. There are no eligibility restrictions for applications in this priority area.

Area 10: Transfer of International Innovations

While this country is a natural field for research and demonstration in the area of social services, we can still gain insights from other countries. Knowledge of social services in other countries, the programs, authorizations and governance, delivery systems, and innovations, can be beneficial to U.S. domestic programs. HDS seeks proposals which address the transfer of innovations for other countries.

The following factors are to be considered in proposing a transfer of an innovation from another country:

- Promise of contributing significantly to the achievement of one or more of the major HDS goals cited in Section I of the Preamble to this announcement and be of benefit to one or more of the HDS target groups which include Native Americans, the socially and economically needy elderly, the developmentally disabled, or at-risk children, youth and families.
- Be relevant to domestic research with the possibility of complementing ongoing or new U.S. projects.
- Relate to the U.S. commitment to its participation in international organizations, both governmental and non-governmental, and to United Nations-sponsored events, such as the International Youth Year 1985; follow-up to the World Assembly on Aging; and the United Nations' Decade of Disabled Persons.

Examples of areas which may receive support are: Access to services by the handicapped; children and youth at risk; community and in-home services for functionally impaired populations; innovative housing arrangements for the aged; intergenerational linkages; programs designed to reduce dependency, including work-related day care and in-home day care; self-help; social indicators; and social service coordination and management systems.

Federal funds awarded under this priority area cannot be used to support international travel. However, a portion of the non-Federal contribution from cooperating oranizations may be utilized for international travel.

There are no eligibility restrictions for applications in this priority area. However, HDS is interested in innovative models and is not interested in funding ongoing direct service projects which have been imported to the United States or exported to another country.

Area 11: Small Business Innovation Research Program

This priority area authorizes funding for small businesses under the appropriate statutory authorities for any of the priorities described in the preceding sections of this announcement. In addition, small businesses are encouraged to apply modern marketing techniques to determine if the marketing of products from previously funded HDS discretionary efforts can be profitable for small businesses. Emphasis should be placed on cost effective approaches for replication, such as franchising service delivery approaches.

The application should document the strategy for marketing the products to potential users as a means of disseminating the results of previous efforts. The strategy should include the following:

- Identification of innovative marketing techniques for bringing to the attention of the human services community, knowledge and practices that may be applied to the specific HDS program under which the project is being funded as well as other service delivery programs;
- Exploration of methods to establish linkages between organizations, practitioners and policymakers for the purpose of developing and maintaining a data base to be utilized in matching specific products with organizations that are the most likely consumers of these projects and which will benefit from their use;
- Identification of costs and other operating characteristics associated with conducting a marketing project, taking into account the wide range of target populations and special needs that are addressed by HDS and more specifically, the target populations addressed in this announcement.

Eligibility under this priority area is limited to organizations which meet the definition of a small business. A "small business" is an organization, including its affiliates, which is independently owned and operated for profit, it not dominant in its field of operation, and can further qualify under the following size standard: not more than 500 employees (full-time, part-time, temporary, or other) during the previous 12-month period in all affiliated firms owned or controlled by a single parent firm. Included are women-owned and minority and disadvantaged small businesses at least 51 percent owned or operated and controlled by such individuals.

At least two-thirds of each SBIR project must be carried out in the small business firm, and the primary employment of the principal investigator (or project director) must be with the firm at the time of award and during the conduct of the proposed project. Primary employment means that more than one-half of the individual's working time is spent with the small business employer.

Applicants applying under this priority must formulate their proposals in accordance with the specifications outlined in the *SBIR Application for Financial Assistance*. Copies may be obtained by telephoning (202) 755-4633.

Part III. Application Process

A. Eligible Applicants

In general, any State, public or private nonprofit organization or agency may submit an application under this announcement. Some specific priority areas or topics included in this announcement may have more restrictive eligibility requirements (for example, priority area 1.1.A is limited to State Developmental Disabilities Councils). Where limitations exist, the eligible entities are identified in the priority area or topic description. Applications jointly developed by State, local and community-based social services agenices, foundations or universities are encouraged in order to promote comprehensive social services programs; in these cases, the lead organization must be an eligible applicant. "For-profit" organizations are eligible applicants for projects under Area 11, the Small Business Innovation Research program, as well as for certain projects funded under the authority of the Head Start Act, Native Americans Program Act and, in limited cases, the Older Americans Act. "For-profit" organizations may also participate as contractors under a grant to eligible applicants on all projects.

B. Available Funds

The availability of funds for FY 1986 and FY 1987 is dependent on passage of appropriations by the Congress. Based on the level of funding for FY 1986, HDS expects to award new grants and cooperative agreements during the second, third and fourth quarters of FY 1986. Subject to Congressional action on the FY 1986 budget, HDS may also award a limited number of grants under this announcement in the first and second quarters of FY 1987. Appropriate HDS discretionary funding authorities will be used to fund projects, and more than one authority may be used to fund some projects.

HDS expects to make approximately 300 new awards pursuant to this announcement. These awards may range from $10,000 to a maximum of $200,000 per budget period (except for applications under priority area 6.2.A), with a average award of $100,000. Actual awards may vary widely and eligible applicants requesting smaller awards are encouraged to apply. Projects of less than 12 months may also be submitted. Applicants should be aware that HDS receives 2,000 to 5,000 applications annually to its Coordinated Discretionary Funds Program. Of these, about 300 applicants received grant awards last year.

C. Grantee Share of the Project

At least 25% of the total cost of proposed projects must come from a source other than the Federal government (one dollar match for every three dollars requested from HDS) except: (1) In the case of projects funded under the Native Americans Act, where the grantee match must be 20% of the total cost of the proposed project (one dollar match for every four dollars requested from HDS); and (2) universities or other non-profit organizations which have a current institutional cost sharing agreement with HHS *and* propose to carry out a research project.

The non-Federal share of total project costs for each budget period may be in the form of grantee-incurred costs or third party in-kind contributions. HDS strongly encourages applicants to propose a grantee share which is more than 25% of the project costs or where the applicant proposes to match HDS grants, partially or fully, with cash contributions from non-Federal funding sources.

Applications proposing less than the 25% required match, unless exempted as stated above, will be considered unresponsive and will not be reviewed.

D. Application Process

Organizations wishing to compete for grants under this announcement must submit an application by November 20, 1985. Applications received in response to this announcement will be reviewed by Federal staff and non-Federal experts. Some applicants may be asked to submit additional information during the review process. Successful applicants may expect funding in the second, third and fourth quarters of FY 1986 or the first and second quarters of FY 1987.

1. Availability of Forms

All instructions and forms required for submittal of applications are included in this announcement. Additional copies of this announcement may be obtained by

writing or telephoning: HDS/Division of Research and Demonstration, 200 Independence Avenue, SW., Room 724–F, Washington, D.C. 20201, Attention HDS–86–1, Telephone: (202) 755–4633.

2. Application Submission

One signed original and a minimum of two copies of the application must be submitted to: Department of Health and Human Services, HDS/Division of Research and Demonstration, 200 Independence Avenue, SW., Room 724–F, Washington, D.C. 20201; Attention HDS–86–1.

Priority Area

Submittal of *five additional copies* will expedite processing. However, there is no penalty for not submitting these additional copies.

3. Notification Under Executive Order 12372

This program is covered under Executive Order 12372 "Intergovernmental Review of Federal Programs" and 45 CFR Part 100 "Intergovernmental Review of Department of Health and Human Services Programs and Activities."

A Single Point of Contact (SPOC) has been established in all States and territories except Alaska, Idaho and American Samoa. Applicants from these three areas need take no action regardind E.O. 12372. Applications for projects to be administered directly by Federally-recognized Tribes, as well as applications submitted under the SBIR program, are also exempt from the requirements of E.O. 12372. Further, applications funded under the Older Americans Act are exempt, although applications funded jointly through the Older Americans Act and another statutory authority must meet the requirements of E.O. 12372. Where applicable, applicants must submit the required material to their SPOCs to obtain their comments for consideration by HDS as part of the application review and award process.

SPOCs, State processes or directly affected State, areawide, regional and local officials and entities have sixty (60) days starting from the application deadline to comment on applications for financial assistance under this program. Applicants should contact their State Single Point of Contact or State Process as soon as possible to alert them of the prospective application and receive instructions regarding the process. The Department will notify the State of any application received which has no indication that the State Process had an opportunity to review it. Therefore, it is imperative that the applicant submit the required materials to the SPOC and *indicate this submital on the SF 424, item 22a.*

SPOCs will submit their comments directly to: Department of Health and Human Services, HDS/Grants and Contracts Management Division, 200 Independence Avenue, SW., Room 724–F, Washington, DC 20201 Attn: HDS–86–1.

A list of the Single Point of Contact or State Process for each State or territory is included at the end of this announcement.

4. Notification of State Developmental Disabilities Councils

A copy of the application must be submitted to the State Developmental Disabilities Council for its review and comment when individuals with developmental disabilities who reside in that State are included as a target population of the proposed project. A listing of the Councils may be obtained by calling (202) 755–4633. This requirement is in addition to the SPOC notification required by E.O. 12372.

5. Small Business Innovation Research Program Applicants

Applicants under Area 11, Small Business Innovation Research (SBIR) program, must develop their applications in accordance with the specifications outlined in the *SBIR Application for Financial Assistance.* Applications under the SBIR program will be evaluated for conformity to the instructions and criteria contained in that document, which may differ from the information which follows.

6. Application Consideration

Applications that conform to the requirements of this program announcement will be reviewed competitively against the evaluation criteria specified in Part III, F.2 of this announcement and evaluated by Federal officials and qualified persons from outside of the Federal government. The results of the review will assist the Assistant Secretary and Program Commissioners, and other members of the HDS Senior Staff in considering competing applications. Senior Staff may also take into account comments from Federal Regional and Headquarters program staff offices. In addition, comments may be obtained from foundations, appropriate specialists and constituents inside and outside of the Federal government.

The Assistant Secretary for Human Development Services, Program Commissioners and other members of the HDS Senior Staff will determine the action to be taken on each application. The Older Americans Act places certain responsibilities upon, and authority in, the Commissioner on Aging which affects the role of the Administration on Aging in implementing this program announcement. All such requirements will be met through actions which conform to the mandates of the Act.

HDS reserves the option of discussing applications with, or referring them to, other Federal or non-Federal funding sources when this is determined to be in the best interest of the Federal government or the applicant. The one exception to this practice is for applications submitted under the Small Business Innovation Research program, Area 11.

7. Funding Limitations on Indirect Costs

Applicants should be aware that for training projects there is a limitation on indirect costs to eight percent of the total allowable direct costs or, where a current agreement exists, the organization's negotiated indirect cost rate, whichever is lower.

E. Special Considerations for Funding

Within the limits of available Federal funds, HDS Executive Staff make financial assistance awards consistent with the purposes of the statutory authorities governing the HDS Coordinated Discretionary Funds Program and this announcement. In making these decisions, *preference will be given to projects that propose the innovative use of volunteers or involve the private sector.* To the extent possible, final decisions will reflect the equitable distribution of assistance among the States, geographical areas of the nation, and rural and urban areas.

F. Criteria for Screening and Review

All applications that meet the deadline will be screened to determine completeness and conformity to the requirements of this announcement. Complete, conforming applications will then be reviewed and evaluated competitively.

1. Screening Requirements

In order for an application to be in conformance, it must meet T3all of the following requirements:

(a) *Number of copies:* An original signed application and two copies must be submitted. Five additional copies are optional but will expedite processing.

(b) *Length:* The narrative portion of the application *must not exceed twenty double-spaced pages* (or ten single-spaced pages) typewritten on one side of the paper only. The capability statement must not exceed two double-

spaced pages or one single-spaced typewritten page.

(c) *Standard Form 424:* The application must include an SF 424, page 1 *and* Part III, Sections B and E, completed according to the instructions set forth in Part IV, C. of this announcement

(d) *Multiple Submittals:* A project can only be proposed once under this announcement. Mutliple submittals of the same—or essentially the same—project under different priority areas will be assigned to a single priority area.

(e) *Eligibility:* The applicant must be an eligible entity as defined in the first section of this Part or as defined in the specific priority area descriptions in this announcement.

(f) *HDS Priorities:* The concept or project embodied in the application must specifically address a topic or priority area as stated in the announcement and indicated on the SF 424, page 1, item 6b.

(g) *HDS Populations:* The application must clearly target one or more HDS populations: the elderly; children, youth and families; Native Americans; the poor; and the developmentally disabled. A definitive listing of HDS target populations is found at the end of Part IV.

(h) *Non-Federal Contribution (Match):* A non-Federal contribution of at least 25% of the total project costs (one dollar for every three dollars requested from HDS) must be proposed, except in the case of projects funded under the Native Americans Act where the grantee match must be 20% of the total cost of the proposed project (one dollar for every four dollars requested from HDS), or in the case of research projects proposed by universities or other non-profit organizations that have a current cost sharing agreement with HHS.

(i) *Cost:* Unless allowed under the priority area for which the application is being submitted (for example, priority area 6.2.A), proposed projects requesting more than $200,000 per budget period in Federal funds will be deemed nonconforming.

UNDER NO CIRCUMSTANCES WILL APPLICATIONS THAT DO NOT MEET THESE SCREENING REQUIREMENTS BE REFERRED TO REVIEW PANELS.

2. Evaluations Criteria

Applications which pass the screening will be reviewed by at least three individuals. These reviewers will be primarily experts from outside the Federal government. Reviewers will score the applications, basing their scoring decisions on the following criteria:

a. Need for the Project: 20 points. The application clearly describes, in concrete terms, the social problem or situation that prompts the applicant to propose a project. The need for the project is discussed in terms of local, regional or national significance and the importance of the issues to be addressed. It also describes how the proposed project builds upon previous work, how it advances the state of knowledge from a national perspective and how it addresses a priority need identified in this announcement.

b. Expected Outcomes and Innovativeness: 15 points. The proposed project will result in a measurable, concrete reduction of a significant problem. The anticipated results and products are specified and the expected benefits for HDS target groups and human service providers delineated. Outcomes as opposed to process measures are emphasized. A significant improvement upon, or important departure from, existing practices and previous related work in the field of human services is proposed.

For projects in which the major activity is replication of successful model(s) and innovativeness is difficult to establish, the focus is on the identification of the most appropriate model(s) given the expected outcomes and the implementation of the model(s). Factors such as cost of replication, client impact, long range funding and documentation of the model are considered when replicating a model or technique. Where appropriate, evaluation plans and procedures are described in detail and are capable of measuring the degree to which project objectives have been accomplished.

c. Project Methodology: 25 points. The application describes specific plans for conducting the project in terms of the tasks to be performed. It includes relevant information about: (1) Hypotheses to be tested (if appropriate); (2) concise and clear statement of goals and measurable objectives; (3) what the project will do; (4) how the project will be conducted; (5) data to be collected (including specification of data sources); (6) plan for data analysis; and (7) milestones in the progress of the project. A detailed discussion is provided on how the approach proposed will accomplish the project objectives. The applicant describes in detail the approach to replication or franchising, where appropriate. Whenever possible, innovative use is made of volunteers and the private sector is involved.

d. Level of Effort: 20 points. The resources that will be needed to conduct the project are specified, including personnel, time, funds and facilities. The staff (of other personnel resources) are qualified and the team has the variety of skills required and ability to produce final results that are readily comprehensible and usable. The staffing pattern clearly links responsibilities to project tasks. The project's costs are reasonable in view of anticipated results. Any collaborative effort with other agencies or organizations is clearly identified and written assurances referenced. A description by category (personnel, travel, etc.) of the total of the Federal funds required and of the sources of outside support that will be used to meet the matching requirement is included. The funds (Federal and from other sources) are specified for each budget period.

e. Utilization and Dissemination: 20 points. The application describes the methods the project will use to share its experiences and findings with the field of human services in general and specifically, with agencies or organizations capable of developing improved service delivery and management. The steps to be taken to disseminate and promote the utilization of project products and findings using Federal and non-federal resources are described. The specific audiences to whom the products will be addressed are identified. All applicants requesting funds for the dissemination of information through publications have submitted evidence of the following:

1. Clear statement of purpose;

2. Clear statement of utility (how recipients are expected to use the publication);

3. Evidence that the publication is not duplicative of another public or private sector publication;

4. Clear description of the intended audience (who would benefit from such a publication);

5. Description of an economical, practical and achievable distribution plan for getting the product into the hands of the intended audience; and,

6. Detail of production costs.

These evaluation criteria correspond to the outline for the narrative section of the application and the descriptions of the five criteria above should be used in developing the program narrative.

G. Closing Date for Receipt of Applications

The closing date for submittal of applications under this program announcement is November 20, 1985. Applications must be mailed or hand delivered to: HDS/Division of Research and Demonstration, 200 Independence Avenue, SW.—Room 724–F,

Washington, D.C. 20201 Attention HDS-86-1.

Priority Area——————————

Hand delivered applications are accepted during the normal working hours of 9:00 a.m. to 5:30 p.m., Monday through Friday. An application will be considered as meeting the deadline if it is either:

1. Received on or before the deadline date at the above address; or

2. Sent on or before the deadline date and received in time to be considered during the competitive review and evaluation process. Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.

Applications which do not meet the above criteria are considered late applications. HDS will notify each late applicant that its application will not be considered in the current competition.

HDS may extend the deadline for all applicants because of acts of God, such as floods, hurricanes or eartquakes, when there is widespread disruption of the mails or when HDS determines an extension to be in the best interest of the government. However, if HDS does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant(s).

Part IV. Instructions for Completing Applications

A. Application Package

In order to expedite the processing of applications, we request that you *adhere to the following instructions explicitly.* Each application submission must include:

1. An original and a minimum of two copies of the application (See Section B below). While an original and two copies are required, *five additional copies would facilitate processing.* However, no applicant will be penalized for submitting only the three required copies. Each copy should be stapled securely (front and back if necessary) in the upper left corner. The original copy of the application must have an original signature in item 23 on page 1 of the SF 424. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials such as agency promotion brochures, slides, tapes, film clips, etc. It is not feasible to use such items in the review process, and they will be discarded if included.

2. Three extra copies of page 1 of SF 424, each stapled to a copy of the summary description, apart from the copies of the application required above.

3. Do not include a self-addressed, stamped acknowledgement card. All applicants will be automatically notified of receipt and of the identification number assigned to their application. This number and the priority area must be referred to in *All* subsequent communication with HDS concerning the application. If acknowledgement is not received within eight weeks after the deadline date, please notify HDS by telephone (202) 755-4633.

After an identification number is assigned and the applicant has been notified of the number, applications are filed numerically by identification number to aid in quick retrieval. It will not be possible for HDS staff to provide a timely response to inquiries about a specific application unless the identification number and the priority area are given.

Applicants should be advised that HDS staff can not release pre-decisional information relative to an application other than that it has been received and that it is going through the review process. Unnecessary inquiries delay the award process. Once a decision is reached, the applicant will be notified as soon as possible of the acceptance or rejection of the application.

B. Content of Application

Each copy of the application *must* contain an SF 424, completed in accordance with the following instructions:

1. Page 1, the cover page of the application;

2. Part II, Project Approval Information;

3. Part III, Budget Information, Section B (Budget Categories) and Section E (Budget Estimates for Federal Funds Needed for Balance of the Project);

4. Summary description;

5. Part IV, Program Narrative, which should be no more than twenty double-spaced or ten pages single-spaced pages and typewritten on one side of the paper only. In addition, an organizational capability statement, no more than two double-spaced typewritten pages or one single-spaced page, should be included; and

6. Part V, Assurances.

C. Preparing the Application

The SF 424 has been reprinted for your convenience. We suggest that you reproduce it and type your application on the copy. Prepare your application in accordance with the following instructions:

1. SF 424, page 1: Complete item numbers 4, 5, 6b, 7, 8, 10, 12, 13, 15, 16, 22 and 23 only. Specific instructions are as follows:

Items 1-3. Leave blank.

Item 4.a. Enter the name of applicant organization ONLY, for example, "University of Utah". DO NOT include the name of the principal investigator or project director on this line. Do not include the word "The" in front of the organization's name.

Item 4.b. Enter the unit within the organization that will actually carry out the project, for example, "College of Human Ecology". If 4.a and 4.b are the same, leave 4.b blank.

Item 4.c-4.g Self explanatory.

Item 4.h. Enter the name and telephone number of a person who can respond to questions about the application.

Item 5. Enter the employer identification number of the applicant organization as assigned by the Internal Revenue Service.

Item 6.a. Leave blank.

Item 6.b. Enter the three digit number (for example, 1.1.A) of the priority area under which the application is being submitted. When a three digit number is not provided (for example, topic 3.1), enter the two digit number for the topic or area. If more than one priority area is listed, HDS will disregard all but the first one listed.

Item 7. The title should be no more than 200 characters long. It should be typed in four lines of 50 characters each. The title should first identify the type of service or services and the target population or populations. Included in the announcement at the end of Part IV are lists of HDS suggested services and target populations. Item 7 also asks for a summary description of the project using Section IV. In place of Section IV, use a separate sheet of 8½ × 11 plain paper to provide this summary description of the project. Clearly mark this separate page with the applicant name as shown in item 4.a and the priority area as shown in item 6.b. The summary description may not exceed 200 words. However, only the first 800 characters, ten lines of eighty characters each, will be put into a computer data base. It should also be specific and tightly written. It should describe the objectives of the project, the approaches to be used, and the outcomes expected. At the end of the summary, list major products that will result from the proposed project (such as software packages, materials, management procedures, data collection instruments, training packages or videos). Remember, this summary description is limited to 200 words. This information, in conjunction

with the information on the SF 424, becomes the project's "abstract".

Item 8. Self-explanatory with the exception of 8.e, "City", which includes a town, township, or other municipality.

Item 9. Leave blank.

Item 10. Enter specific number of persons to be directly benefited or served during the life of the project. This number should be substantiated in the application's Program Narrative.

Item 11. Leave blank.

Items 12.a–12.f Enter the budget for (1) the total period of 17 months or less or (2) the first year if the proposed project exceeds 17 months. 12.a– Enter the amount of Federal funds requested. 12.b–12.e. Enter the amount(s) of funds from non-Federal sources that will be contributed to the proposed project. These items (12.b–12.e) are considered "matching funds". In item 12.f, enter the sum of items 12.a–12.e.

Item 13.a. Enter the number of the Congressional district where the principal office is located.

Item 13.b. Enter the number of the Congressional district(s) where the project will be located. If State-wide, a several state effort or nationwide, enter "00".

Item 14. Leave blank.

Item 15. Enter the desirable start date for the project, beginning on or after March 15, 1986.

Item 16. Enter the estimated number of months to complete the project after Federal funds are available. Projects are generally for 12 months, 24 months or 36 months or for the duration specified in the topic or priority area description.

Items 17.–21. Leave blank.

Item 22a. Enter the date the application was submitted to the Single Point of Contact (SPOC) selected from the attached listing.

Item 22b. Check the appropriate box if not covered by E.O. 12372.

Items 23a. and b. Self-explanatory.

Items 24–33. Leave blank.

2. SF 424, Part II: Negative answers will not require an explanation unless HDS requests more information at a later date. All "yes" answers must be explained on a separate page in accordance with these instructions.

Item 1. Provide the name of the governing body establishing the priority system and the priority rating assigned to this project. If the priority rating is not available, give the approximate date that it will be obtained.

Item 2. Provide the name of the agency or board which issued the clearance and attach the documentation of status or approval. If the clearance is not available, give the approximate date that it will be obtained.

Item 3. Furnish the name of the approving agency and the approval date. If the approval has not been received, state approximately when it will be obtained.

Item 4. Show whether the approved comprehensive plan is State, local or regional; or, is none of these, explain the scope of the plan. Give the location where the approved plan is available for examination, and state whether this project is in conformance with the plan. If the plan is not available, explain why.

Item 5. Show the population residing or working on the Federal installation who will benefit from this project. Federally recognized Indian reservations are not "Federal installations".

Item 6. Show the percentage of the project work that will be conducted on Federally-owned land or leased land. Give the name of the Federal installation and its location.

Item 7. Briefly describe the possible beneficial and/or harmful effect on the environment because of the proposed project. If an adverse environmental effect is anticipated, explain what action will be taken to minimize it.

Item 8. State the number of individuals, families, businesses or farms this project will displace. Federal agencies will provide separate instructions, if additional data is needed.

Item 9. Show the Catalog of Federal Domestic Assistance number, the program number, the type of assistance, the status, the amount of each project where there is related previous, pending or anticipated assistance from another source.

3. SF 424, Part III—Budget Information: We have deleted Sections A, C, D and F under Part III. Sections B and E have been reprinted at the end of the announcement.

a. Section B—Budget categories. This budget covers (1) the total project period of 17 months or less or (2) the first year if the proposed project exceeds 17 months. It should relate to item 12.a, proposed Federal funding, on the SF 424, page 1. The amount of Federal funds requested for the second or third year of a project is to be specified in Part III, Section E, Budget Estimate of Federal Funds Needed for Balance of Project.

Under the column title "CDP", enter under column (1) the total rquirements for Federal funds by object class category and the total Federal funds requested for the proposed project. Allowability of costs are governed by applicable cost principles set forth in Subpart Q of 45 CFR Part 74 and the HDS Grants Administration Manual. A budget justification should be included when it is necessary to explain fully and justify major items, as indicated below.

Personnel—Line 6a: Enter the total costs of salaries and wages of applicant/grantee staff. Do not include costs of consultants or personnel costs of delegate agencies.

Fringe Benefits—Line 6b: Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate. Provide a break-down of amounts and percentages that comprise fringe benefit costs.

Travel—6c: Enter total costs of out-of-town travel (travel requiring per diem) for staff of the project. Do not enter costs for consultant's travel or local transportation. Provide justification for requested travel costs.

Equipment—Line 6d: Enter the total costs of all non-expendable personal property to be acquired by the project. "Non-expendable personal property" means tangible personal property having a useful life of more than two years and an acquisition cost of $500 or more per unit. An applicant may use its own definition of non-expendable personal property, provided that such a definition would at least include all tangible personal property as defined in the preceding sentence.

Supplies—Line 6e: Enter the total costs of all tangible personal property (supplies) other than those included on line 6d.

Contractual—Line 6f: Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.), and, (2) contracts with secondary recipient organizations including delegate agencies. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line. Attach a list of contractors indicating the name of the organization, the purpose of the contract and the estimated dollar amount of the award. If the name of contractor, scope of work and estimated total is not available or has not been negotiated, include in Line h, "Other." Whenever the applicant/grantee intends to delegate part or all of the program to another agency, the applicant/grantee must complete this section (Section B, Budget Categories) for each delegate agency by agency title, along with the supporting information. The total cost of all such agencies will be part of the amount shown on Line 6(f). Provide back-up documentation identifying the name of contractor, purpose of contract and major cost elements.

Construction—Line 6g: Enter the costs of renovation or repair. Provide narrative justification and break-down or costs. New construction is unallowable.

Other—Line 6h: Enter the total of all other costs. Such costs, where applicable, may include, but are not limited to, insurance, food, medical and dental costs, (noncontractual), fees and travel paid directly to individual consultants, local transportation (all travel which does not require per diem is considered local travel), space and equipment rentals, printing and publication, computer use, training costs including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Total Direct Charges—Line 6i: Show the totals of Lines 6(a) through 6(h).

Indirect Charges—Line 6j: Enter the total amount of indirect costs. If no indirect costs are requested enter "none." This line should be used only when the applicant (except local governments) has a current indirect cost rate agreement approved by the Department of Health and Human Services or another Federal agency. If the rate has recently (within the past 90 days) been approved, please enclose a copy of the agreement. Local governments shall enter the amount of indirect costs determined in accordance with HHS requirements. In the case of training grants to other than State or local governments (as defined in 45 CFR Part 74), the reimbursement of indirect costs will be limited to the lesser of the negotiated indirect cost rate or 8 percent of the amount allowed for direct costs exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations. It should be noted that when an indirect cost rate is requested, these costs included in the indirect cost pool should not be also charged as direct costs to the grant.

Total—Line 6k: Enter the total amounts of Lines 6(i) and 6(j).

Program Income—Line 7: Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Describe the nature and source of income in the Program Narrative.

b. SECTION E—BUDGET ESTIMATE OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT. This section should only be completed if the total project period exceeds 17 months.

Total—Line 20: Enter the estimated required Federal funds for the second budget period (months 13 through 24) under (b) first and for the third budget period (months 25 through 36) under (c) second opposite "CDP".

4. SF 424, Part IV, Program Narrative

Describe the project you propose in response to this announcement. Your narrative (20 pages typed double-spaced, or ten pages typed single-spaced maximum, on 8½" × 11" plain white bond with 1" margins on both sides) should provide information on how the application meets the evaluation criteria in Part III. Reproductions of larger size paper, reduced to meet the size requirement, are not acceptable. We strongly suggest that you follow these format and page limitations:

a. Need for the Project (5 pages typed double-spaced). The application should clearly describe, in concrete terms, the social problem or situation that prompts the applicant to propose a project. The need for the project should be discussed in terms of local, regional or national significance and the importance of the issues to be addressed. It also should describe how the proposed project would build upon previous work, advance the state of knowledge from a national perspective and address a priority need identified in this announcement.

b. Expected Outcomes and Innovativeness (2 pages double-spaced maximum). The program narrative should describe how the proposed project will result in a measurable, concrete reduction of a significant problem. The anticipated results and products should be specified and the expected benefits for HDS target groups and human service providers delineated. Outcomes as opposed to process measures should be emphasized. A significant improvement upon, or important departure from, existing practices and previous related work in the field of human services should be proposed.

For projects in which the major activity is replication of successful model(s) and innovativeness is difficult to establish, the focus should be on the identification of the most appropriate model(s) given the expected outcomes and the implementation of the model(s). Factors such as cost of replication, client impact, long range funding and documentation of the model should be considered when replicating a model or technique. Where appropriate, evaluation plans and procedures should be described in detail and should be capable of measuring the degree to which project objectives have been accomplished.

c. Project Methodology (8 pages double-spaced maximum). The application should describe specific plans for conducting the project in terms of the tasks to be performed. It should include relevant information about: (1) Hypotheses to be tested (if appropriate); (2) concise and clear statement of goals and measurable objectives; (3) what the project will do; (4) how the project will be conducted; (5) data to be collected (including specification of data sources); (6) plan for data analysis; and (7) milestones in the progress of the project. A detailed discussion should be provided on how the approach proposed will accomplish the project objectives. The application should describe in detail the approach to replication or franchising, where appropriate. Whenever possible, innovative use should be made of volunteers and the private sector should be involved.

d. Level of Effort: (3 page doubled-spaced maximum). This portion of the program narrative should describe the resources that will be needed to conduct the project, including personnel, time, funds and facilities. The description should indicate that staff (of other personnel resources) are qualified and the team has the variety of skills required and ability to produce final results that are readily comprehensible and usable. The staffing pattern clearly should link responsibilities to project tasks. Costs should be justified as reasonable in view of anticipated results. Any collaborative effort with other agencies or organizations should be clearly identified and written assurances referenced. A description by category (personnel, travel, etc.) of the Federal funds required and of the sources of outside support that will be used to meet the matching requirement should be included.

e. Utilization and dissemination: (2 page double-spaced maximum). This section should describe the methods the project will use to share its experiences and findings with the field of human services in general and specifically, with agencies or organizations capable of developing improved service delivery and management. The steps to be taken to disseminate and promote the utilization of project products and findings using Federal and non-federal resources should be described. The specific audiences to whom the products will be addressed should be identified. For projects with a dissemination focus, the additional factors at the end of this section on evaluation criteria should be addressed.

4. Organizational Capability Statement

A brief (maximum 2 pages double-spaced or one page single-spaced)

background description of how the applicant agency (or the particular division of a larger agency which will have responsibility for this project) is organized and the types and quantity of services it provides or research capabilities it possesses. This description should cover capabilities not included in the program narrative under level of effort. It may include descriptions of any current or previous relevant experience or describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensive and usable. It may include a description of the qualifications of key staff described in a few paragraphs rather than in formal vitae.

If written commitments have been obtained from organizations that will be directly involved in the proposed project, these could be described. Under several priority areas, letters from organizations that will collaborate on the proposed project are necessary to show the organization's firm commitment to the project. For these specific priority areas, letters of commitment (not letters of support) may be attached as appendices to the application without counting against the page limit requirement. In all other priority areas, the organizational capability statement could identify the organizations from which firm commitments have been received, if these are not described in the program narrative. Applicants may be asked to produce evidence of such commitments at a later time.

5. Part V, Assurances

Applicants are required to file Part V, Assurances, and the Assurance of Compliance with the DHHS Regulations under Title VI of the Civil Rights Act of 1964 and the Assurance of Compliance with section 504 of the Rehabilitation Act of 1973, as amended. Copies of these assurances are reprinted at the end of this announcement.

D. Check List of Application Requirements

The following check list is provided for your convenience:

- ☐ SF 424 has been completed according to instructions.
- ☐ SF 424 has been signed and dated by an authorized official (item 23) and the original has been included in the package to be mailed.
- ☐ Each application has been stapled securely (no folders or binders) with the first page of the SF 424 as the first page of each copy of the application.

Included in your application package are:

- ☐ One original application plus two copies. We request that you send five additional copies to facilitate our review.
- ☐ Three additional sets of the SF 424 (page one only) and the summary description, stapled in pairs: Each of the copies should include the following:
- ☐ SF 424, page 1 and Part III
- ☐ Summary description
- ☐ Program Narrative (20 pages, double-spaced maximum;
- ☐ Organizational capability statement (2 pages, double-spaced maximum)

Remmber, applications must be postmarked or hand delivered (by 5:30 p.m.) no later than November 20, 1985 to: HDS/Division of Research and Demonstration, 200 Independence Avenue, SW.—Room 724–F, Washington, D.C. 20201 Attention HDS–86–1

Priority Area———————————

F. Points to Remember

- Designate your application for one topic or priority area only.
- Although multiple applications (of different concepts) from the same applicant are not prohibited, they are not encouraged.
- You are required to send an original and two copies of a application. We request that you send FIVE ADDITIONAL copies to facilitate our review. However, there is no penalty for sending only three copies.
- In computing the required match for all projects except those funded under the Native Americans Act Authority or research proposals from institutions with cost sharing agreements with HHS, please note that 25% of the *total* (the amount requested and your cost share) project cost is equivalent to ⅓ of the amount requested from HDS. Thus for every 3 Federal dollars you request, you must match with an one dollar from your organization. *Miscomputation of the match is a common mistake that leads to disqualification.* In order to compute the required minimum match, divide the amount you are requesting from HDS by 3. For example, if your request for Federal funds is $100,000, then the required minimum match or cost sharing is $33,333. The total project cost, Federal request and proposed matching cost, is $133,333.
- *Applications containing narratives in excess of twenty typewritten double-spaced pages or ten typewritten single-spaced pages) or capability statements of more than two double-spaced pages (or 1 single-spaced page) will not be given further consideration.*
- The distribution of topics related to specific HDS programs (e.g., AoA) is not necessarily commensurate with the distribution of discretionary funds among those programs.
- The summary description of 200 words or less is an essential element of the application. It is important that this accurately reflect the nature and scope of the proposed project.
- Follow the recommended format as closely as possible in preparing the program narrative. The format reflects the evaluative criteria which will be used by reviewers to evaluate applications.
- The qualifications of key staff should be described in a few paragraphs rather than in formal vitae.
- Indirect costs of Child Welfare Services Training (Area 8) and Gerontological Training (Area 9) grants may not exceed 8%.
- Applicants are strongly encouraged to have someone other than the writer apply the screening requirements and evaluation criteria to the application prior to its submittal. In this way, applicants will gain a sense of their application's quality and potential competitiveness.
- Unless exempted, applicants must submit the required materials to their SPOCs to obtain their comments for consideration by HDS as part of the application review and award process.
- Applicants proposing projects targeted on individuals with developmental disabilities must submit a copy of the application to the State Developmental Disabilities Council for the State in which the project will be conducted. A listing of Councils may be requested by calling (202) 755–4633.
- Small businesses submitting applications under Area 11, Small Business Innovation Research Program, must request an Application for Financial Assistance from HDS before they can develop their applications. Copies may be obtained by telephoning (202) 755–4633.
- *The activities below generally will not meet the purposes of this announcement when the activity is not in response to the outcomes described under Part II of the announcement:*

Projects whose main activity is a conference or meeting;

Projects whose major product is a manual.

Proposals that request expansion or continuation of existing services or programs.

Proposals which would establish clearinghouses.

Dated: August 28, 1985.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Dodie Livingston,

Commissioner, Administration for Children, Youth, and Families.

Jean K. Elder, Ph.D.,

Commissioner, Administration on Developmental Disabilities.

Carol Fraser Fisk,

Acting Commissioner, Administration on Aging.

William L. Engles,

Commissioner, Administration for Native Americans.

Richard E. Shute,

Director, Office of Program Development.

BILLING CODE 4130-01-M

OMB Approval No. 0348-0006

FEDERAL ASSISTANCE

SECTION I—APPLICANT/RECIPIENT DATA

1. TYPE OF SUBMISSION (Mark appropriate box)
- ☐ NOTICE OF INTENT (OPTIONAL)
- ☐ PREAPPLICATION
- ☒ APPLICATION

2. APPLICANT'S APPLICATION IDENTIFIER
- a. NUMBER
- b. DATE (Year month day) 19

3. STATE APPLICATION IDENTIFIER (NOTE: TO BE ASSIGNED BY STATE)
- a. NUMBER
- b. DATE ASSIGNED (Year month day) 19

Leave Blank

4. LEGAL APPLICANT/RECIPIENT
- a. Applicant Name
- b. Organization Unit
- c. Street/P.O. Box
- d. City
- e. County
- f. State
- g. ZIP Code
- h. Contact Person (Name & Telephone No.)

5. EMPLOYER IDENTIFICATION NUMBER (EIN)

6. PROGRAM (From CFDA)
- a. NUMBER
- MULTIPLE ☐
- b. TITLE HDS FY 86 CDP Priority Area:

7. TITLE OF APPLICANT'S PROJECT (Use section IV of this form to provide a summary description of the project.)

8. TYPE OF APPLICANT/RECIPIENT
A—State; B—Interstate; C—Substate Organization; D—County; E—City; F—School District; G—Special Purpose District; H—Community Action Agency; I—Higher Educational Institution; J—Indian Tribe; K—Other (Specify):
Enter appropriate letter ☐

9. AREA OF PROJECT IMPACT (Names of cities, counties, states, etc.)

10. ESTIMATED NUMBER OF PERSONS BENEFITING

11. TYPE OF ASSISTANCE
A—Basic Grant; B—Supplemental Grant; C—Loan; D—Insurance; E—Other
Enter appropriate letter(s) ☐☐

12. PROPOSED FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. Total	$	.00

13. CONGRESSIONAL DISTRICTS OF:
- a. APPLICANT
- b. PROJECT

15. PROJECT START DATE (Year month day) 19

16. PROJECT DURATION (Months)

18. DATE DUE TO FEDERAL AGENCY ► (Year month day) 19

14. TYPE OF APPLICATION
A—New; B—Renewal; C—Revision; D—Continuation; E—Augmentation
Enter appropriate letter ☐

17. TYPE OF CHANGE (For 14c or 14e)
A—Increase Dollars; B—Decrease Dollars; C—Increase Duration; D—Decrease Duration; E—Cancellation; F—Other (Specify):
Enter appropriate letter(s) ☐☐☐

19. FEDERAL AGENCY TO RECEIVE REQUEST
- a. ORGANIZATIONAL UNIT (IF APPROPRIATE)
- b. ADMINISTRATIVE CONTACT (IF KNOWN)
- c. ADDRESS

20. EXISTING FEDERAL GRANT IDENTIFICATION NUMBER

21. REMARKS ADDED ☐ Yes ☐ No

SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT► To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.
- a. YES, THIS NOTICE OF INTENT/PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____
- b. NO, PROGRAM IS NOT COVERED BY E.O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW ☐

23. CERTIFYING REPRESENTATIVE
- a. TYPED NAME AND TITLE
- b. SIGNATURE

SECTION III—FEDERAL AGENCY ACTION

24. APPLICATION RECEIVED (Year month day) 19

25. FEDERAL APPLICATION IDENTIFICATION NUMBER

26. FEDERAL GRANT IDENTIFICATION

27. ACTION TAKEN
- ☐ a. AWARDED
- ☐ b. REJECTED
- ☐ c. RETURNED FOR AMENDMENT
- ☐ d. RETURNED FOR E.O. 12372 SUBMISSION BY APPLICANT TO STATE
- ☐ e. DEFERRED
- ☐ f. WITHDRAWN

28. FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. TOTAL	$	.00

29. ACTION DATE► (Year month day) 19

30. STARTING DATE (Year month date) 19

31. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)

32. ENDING DATE (Year month date) 19

33. REMARKS ADDED ☐ Yes ☐ No

NSN 7540-01-008-8162
PREVIOUS EDITION IS NOT USABLE

424-103

STANDARD FORM 424 PAGE 1 (Rev. 4-84)
Prescribed by OMB Circular A-102

OMB NO. 0348-0006

PART II
PROJECT APPROVAL INFORMATION

Item 1.
Does this assistance request require State, local regional, or other priority rating?
_____ Yes _____ No
Name of Governing Body _____
Priority Rating _____

Item 2.
Does this assistance request require State, or local advisory, educational or health clearances?
_____ Yes _____ No
Name of Agency or Board _____
(Attach Documentation)

Item 3.
Does this assistance request require State, local, regional or other planning approval?
_____ Yes _____ No
Name of Approving Agency _____
Date _____

Item 4.
Is the proposed project covered by an approved comprehensive plan?
_____ Yes _____ No
Check one: State ☐ Local ☐ Regional ☐
Location of Plan _____

Item 5.
Will the assistance requested serve a Federal installation?
_____ Yes _____ No
Name of Federal Installation _____
Federal Population benefiting from Project _____

Item 6.
Will the assistance requested be on Federal land or installation?
_____ Yes _____ No
Name of Federal Installation _____
Location of Federal Land _____
Percent of Project _____

Item 7.
Will the assistance requested have an impact or effect on the environment
_____Yes _____ No
See instructions for additional information to be provided.

Item 8.
Will the assistance requested cause the displacement of individuals, families, businesses, or farms?
_____ Yes _____ No
Number of:
Individuals _____
Families _____
Businesses _____
Farms _____

Item 9.
Is there other related assistance on this project previous, pending, or anticipated
_____Yes _____ No
See instructions for additional information to be provided.

OMB NO. 0348-0008

PART III - BUDGET INFORMATION

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	- Grant Program, Function or Activity				Total
	(1) CDP	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges					
j. Indirect Charges					
k. TOTALS	$	$	$	$	$
7. Program Income	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (YEARS)			
	(b) FIRST	(c) SECOND	(d) THIRD	(e) FOURTH
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS CDP	$	$	$	$

PART V

ASSURANCES

The Applicant hereby assures and certifies that he will comply with the regulations, policies, guidelines and requirements, including 45 CFR Part 74, and OMB Circulars No. A-102 and A-110, as they relate to the application, acceptance and use of Federal funds for this federally-assisted project. Also the Applicant assures and certifies to the grant that:

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

2. It will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement.

3. It will comply with Title VI of the Civil Rights Act of 1964 (42 USC 2000d) prohibiting employment discrimination where (1) the primary purpose of a grant is to provide employment or (2) discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.

4. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally-assisted programs.

5. It will comply with the provisions of the Hatch Act which limit the political activity of employees.

6. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of State and local governments.

7. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

8. It will give the sponsoring agency or the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, or documents related to the grant.

9. It will comply with all requirements imposed by the Federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements.

10. It will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSURANCE OF COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

The undersigned (hereinafter called the "recipient") HEREBY AGREES THAT it will comply with section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), all requirements imposed by the applicable HHS regulation (45 C.F.R. Part 84), and all guidelines and interpretations issued pursuant thereto.

Pursuant to § 84.5(a) of the regulation [45 C.F.R. 84.5(a)], the recipient gives this Assurance in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts (except procurement contracts and contracts of insurance or guaranty), property, discounts, or other federal financial assistance extended by the Department of Health and Human Services after the date of this Assurance, including payments or other assistance made after such date on applications for federal financial assistance that were approved before such date. The recipient recognizes and agrees that such federal financial assistance will be extended in reliance on the representations and agreements made in this Assurance and that the United States will have the right to enforce this Assurance through lawful means. This Assurance is binding on the recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the recipient.

This Assurance obligates the recipient for the period during which federal financial assistance is extended to it by the Department of Health and Human Services or, where the assistance is in the form of real or personal property, for the period provided for in § 84.5(b) of the regulation [45 C.F.R. 84.5(b)].

The recipient: [Check (a) or (b)]

a. ( ) employs fewer than fifteen persons;

b. ( ) employs fifteen or more persons and, pursuant to § 84.7(a) of the regulation [45 C.F.R. 84.7(a)], has designated the following person(s) to coordinate its efforts to comply with the HHS regulation:

_____
Name of Designee(s) — Type or Print

_____ _____
Name of Recipient — Type or Print Street Address

_____ _____
(IRS) Employer Identification Number City

_____ _____
Area Code — Telephone Number State Zip

I certify that the above information is complete and correct to the best of my knowledge.

_____ _____
Date Signature and Title of Authorized Official

If there has been a change in name or ownership within the last year, please PRINT the former name below:

PLEASE RETURN ORIGINAL TO: Office for Civil Rights, Room 5627/B North Building, 330 Independence Avenue, N.W., Washington, D.C. 20201.

RETURN COPY TO: Grants Management Office

ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES REGULATION UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

_____ (hereinafter called the "Applicant")

(Name of Applicant)

HEREBY AGREES THAT it will comply with title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 80) issued pursuant to that title, to the end that, in accordance with title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department; and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant by the Department, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance shall obligate the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it by the Department.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant.

Dated _____ _____ _____

(Applicant)

By _____

(President, Chairman of Board, or comparable authorized official)

_____

_____

(Applicant's mailing address)

PLEASE RETURN ORIGINAL TO: Office of Civil Rights
Room 5627/B North Building
330 Independence Ave., N.W.
Washington, D.C. 20201

RETURN COPY TO: GRANTS MANAGEMENT OFFICE

HDS GRANTS MANAGEMENT

HHS-441 (10/82) Rev.

GPO 894-600

BILLING CODE 4130-01-C

State Single Point of Contact List

Alabama

Mrs. Donna J. Snowden, SPOC, Alabama State Clearinghouse, Alabama Department of Economic and Community Affairs, 3465 Norman Bridge Road, Post Office Box 2939, Montgomery, Alabama 36105–0939. Tel. (205) 284–8905

Arizona

Department of Commerce, State of Arizona

Note.—Correspondence and questions concerning this state's E.O. 12372 process should be directed to:

Janice Dunn, Attn: Arizona State Clearinghouse, 1700 West Washington, Fourth Floor, Phoenix, Arizona 85007. Tel. (602) 255–5004

Arkansas

State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203. Tel. (501) 371–1074

California

Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814. Tel. (916) 445–0282

Colorado

State Clearinghouse, Division of Local Government, 1313 Sherman Street, Rm. 520, Denver, Colorado 80203. Tel. (303) 866–2156

Connecticut

Gary E. King, Under Secretary, Comprehensive Planning Division, Office of Policy and Management, Hartford, Connecticut 06106–4459

Note.—Correspondence and questions concerning this state's E.O. 12372 process should be directed to:

Intergovernmental Review Coordinator, Comprehensive Planning Division, Office of Policy and Management, 80 Washington Street, Hartford, Connecticut 06106–4459. Tel. (203) 566–4298

Delaware

Executive Department, Thomas Collins Building, Dover, Delaware 19903, Attn: Francine Booth., Tel. (302) 736–4204

Florida

Ron Fahs, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32301. Tel. (904) 488–8114

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, SW., Atlanta, Georgia 30334. Tel. (404) 656–3855

Hawaii

Kent M. Keith, Director, Department of Planning and Economic Development, P.O. Box 2359, Honolulu, Hawaii 96804

For Information Contact: Hawaii State Clearinghouse Tel. (808) 548–3085

Illinois

Tom Berkshire, Office of the Governor, State of Illinois, Springfield, Illinois 62706. Tel. (217) 782–8639

Indiana

Ms. Susan J. Kennell, State Budget Agency, 212 State House, Indianapolis, Indiana 46204. Tel. (317) 232–5604

Iowa

Office for Planning and Programming, Capital Annex, 523 East 12th Street, Des Moines, Iowa 50319. Tel. (515) 281–3864

Kansas

Kansas Department of Human Resources, Office of the Secretary, Attention: Judy Krueger, 401 Topeka Avenue, Topeka, Kansas 66603. Tel. (913) 296–5075

Kentucky

Kentucky State Clearinghouse, 2nd Floor, Capital Plaza Tower, Frankfort, Kentucky 40601. Tel. (502) 564–2382

Louisiana

Michael J. Jefferson, Department of Urban & Community Affairs, Office of State Clearinghouse, P.O. Box 44455, Capitol Station, Baton Rouge, Louisiana 70804. Tel. (504) 925–3722

Maine

State Planning Office, Attn: Intergovernmental Review Process/ Janice Hird, State House Station ±38, Αθγθστα, Μαινε 04333. Τελ. (207) 289-3154

Maryland

Guy W. Hager, Director, Maryland State Clearinghouse for Intergovernmental Assistance, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365. Tel. (301) 225–4490

Massachusetts

Executive Office of Communities and Development, Attn: Beverly Boyle, 100 Cambridge Street, Rm. 904, Boston, Massachusetts 02202. Tel. (617) 727–3253

Michigan

John H. Reurink, Director, Management Services Bureau, Department of Commerce, P.O. Box 30004, Lansing, Michigan 48909. Tel. (517) 373–1802

Minnesota

Maurice D. Chandler, Intergovernmental Review, Minnesota State Planning Agency, Room 101, Capitol Square Building, St. Paul, Minnesota 55101. Tel. (612) 296–2571

Mississippi

Office of Federal State Programs, Department of Planning and Policy, 2000 Walter Sillers Bldg., 500 High Street, Jackson, Mississippi 39202

For Information Contact:

Mr. Marlan Baucum, Department of Planning and Policy. Tel. (601) 359–3150

Missouri

Missouri Federal Assistance Clearinghouse, Office of Administration, Division of Budget and Planning, Room 129 Capitol Building, Jefferson City, Missouri 65102. Tel. (314) 751–4834 or 751–2345

Montana

Agnes Zipperian, Intergovernmental Review Clearinghouse, c/o Office of the Lieutenant Governor, Capitol Station, Helena, Montana 59620. Tel. (406) 444–5522

Nebraska

Policy Research Office, P.O. Box 94601, Room 1321, State Capitol, Lincoln, Nebraska 68509. Tel. (402) 471–2414

Nevada

Ms. Linda A. Ryan, Director, Office of Community Services, Capitol Complex, Carson City, Nevada 89710. Tel. (702) 885–4420

Note.—Correspondence and questions concerning this state's E.O. 12372 process should be directed to:

John Walker, Clearinghouse Coordinator. Tel. (702) 885–4420

New Hampshire

David G. Scott, Acting Director, New Hampshire Office of State Planning, 2½ Beacon Street, Concord, New Hampshire 03301. Tel. (603) 271–2155

New Jersey

Mr. Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, 363 West State Street, Trenton, New Jersey 08625–0803. Tel. (609) 292–6613

Note.—Correspondence and questions concerning this state's E.O. process should be directed to:

Nelson S. Silver, State Review Process, Division of Local Government Services—CN 803, Trenton, New Jersey 08625–0803. Tel: (609) 292–9025

New Mexico

Peter C. Pence, Director, Management and Contracts Review Div., Department of Finance and Administration, State of New Mexico, 515 Don Gaspar, Santa Fe, New Mexico 87503. Tel. (505) 827–3885

New York

Director of the Budget, New York State

Note.—Correspondence and questions concerning the state's E.O. 12372 process should be directed to:

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224. Tel. (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, State Clearinghouse, Department of Administration, 116 West Jones Street, Raleigh, North Carolina 27611. Tel. (919) 733–4131

North Dakota

Office of Intergovernmental Assistance, Office of Management and Budget, 14th Floor—State Capitol, Bismarck, North Dakota 58505. Tel. (701) 224–2094

Ohio

State Clearinghouse, Office of Budget and Management, 30 East Broad Street, Columbus, Ohio 43215

For Information Contact:

Mr. Leonard E. Roberts, Deputy Director. Tel. (614) 466–0699

Oklahoma

Don Strain, Office of Federal Assistance Management, 4545 North Lincoln Blvd., Oklahoma City, Oklahoma 73105. Tel. (405) 528–8200

Oregon

Intergovernmental Relations Division, State Clearinghouse, Attn: Delores Streeter, Executive Building, 155 Cottage Street NE., Salem, Oregon 97310. Tel. (503) 373–1998

Pennsylvania

Barbara J. Gontz, Project Coordinator, Pennsylvania Intergovernmental Council, P.O. Box 11880, Harrisburg, Pennsylvania 17108, (717) 783–3700

Rhode Island

Daniel W. Varin, Chief, Rhode Island Statewide Planning Program, 265 Melrose Street, Providence, Rhode Island 02907. Tel. (401) 277–2656

South Carolina

Danny L. Cromer, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201. Tel. (803) 758–2417

South Dakota

Connie Treidt, Commissioner, State Government Operations, Second Floor, Capitol Building, Pierre, South Dakota 57501. Tel. (605) 773–3661

Tennessee

Tennessee State Planning Office, 1800 James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37219. Tel. (615) 741–1676

Texas

Bob McPherson, State Planning Director, Office of the Governor, Austin, Texas 78711. Tel. (512) 475–6156

Utah

Dale Hatch, Director, Office of Planning and Budget, State of Utah, 116 State Capitol Building, Salt Lake City, Utah 84114. Tel. (801) 533–5245

Vermont

State Planning Office, Attn: Bernie Johnson, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602. Tel. (802) 828–3326

Virginia

Shawn McNamara, Department of Housing and Community Development, 205 North 4th Street, Richmond, Virginia 23219. Tel. (804) 786–4474

Washington

Ken Back, Washington Department of Community Development, Ninth and Columbia Building, Olympia, Washington 98504. Tel. (206) 753–2200

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, Governor's Office of Economic and Community Development, Building #6, Room 553, Charleston, West Virginia 25305. Tel. (304) 348–4010

Wisconsin

Secretary Doris J. Hanson, Wisconsin Department of Administration, 101 South Webster Street—GEF 2, Madison, Wisconsin 53702. Tel. (608) 266–1212

Note.—Correspondence & questions concerning this state's E.O. 12372 process should be directed to:

Thomas Krauskopf, Federal-State Relations Coordinator, Wisconsin Department of Adminstration, P.O. Box 7864, Madison, WI 53707. Tel. (608) 266–8349

Wyoming

Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002. Tel. (307) 777–7574

Virgin Islands

Toya Andrew, Federal Programs Coordinator, Office of the Governor, the Virgin Islands of the United States, Charlotte Amalie, St. Thomas 00801. Tel. (809) 774–6517

District of Columbia

Loretta Davis, Director, Office of Intergovernmental Relations, Room 416, District Building, Washington, D.C. 20004. Tel. (202) 727–6265

Guam

Guam State Clearinghouse, Office of the Lieutenant Governor, P.O. Box 2950, Agana, Guam 96910

Puerto Rico

Ms. Patria G. Custodio, P.E., Chairman, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985. Tel. (809) 727–4444

Northern Mariana Islands

Planning and Budget Office, Office of the Governor, Saipan, CM 96950

Listing of Services and Target Populations

The listing of services and target populations which follows is to be used to complete item 7 on page one of the SF 424. Detailed instructions are provided under Part IV, C.1. Do not use abbreviations except when an abbreviation is indicated in parentheses below.

Services

Abuse and Neglect
Adoption
After Care for Runaways
After School Care
Alcohol Abuse
Area 8-Child Welfare Services Training (CWST)
Area 9-Gerontology Training (GT)
Area 11-Small Business Innovation Research Program (SBIR)
Board and Care
Child Care
Child Abuse and Neglect
Child Sexual Abuse
Child Welfare Services
Chemical Dependency Prevention
Community Based Living
Community Care
Consumer Health Education
Continuing Care
Counseling
Elderly Abuse and Neglect
Employment
Family Day Care

Foster Care
Group Homes
Guardianship
Head Start
Home Equity Conversion
Hospice
Housing
Independent Living
Infant Care
Information and Referral
In-Home Care
Life Care Communities
Long Term Care
Mental Health
Medical
Nutritional Services
Outreach
Parenting Education
Pregnancy Prevention
Prevention
Protective Services
Respite Care
Retirement
Runaway Services
School Services
Self-Help Groups
Self Sufficiency
Suicide Prevention
Support Groups
Therapeutic Day Care
Therapeutic Foster Care
Transition Services
Volunteers
Vounchers

Target Populations

Abused Elderly
Abused and Neglected Adults
Adults
Adoptive Parents
Aging
Asians
Alcoholics
Chemically Dependent
Children
Developmentally Disabled
Elderly
Families
Family Day Care Providers
Foster Care Parents
Frail Elderly
Head Start
Hispanics
Homeless
Immigrants and Refugees
Incarcerated Parents
Indians
Infants
Isolated Elderly
Latchkey Children
Low Income
Mentally Disabled
Minorities
Native Americans
Near Emancipated Youth
Older Adolescents
Older Persons
Parents
Physically Disabled
Runaway Youth
Sexually Abused
School Age
School Dropouts
Single Parents
Special Needs Adoption
Special Needs
Speech/Language Impaired
Teenage Parents
Unemployed
Visually Impaired
Volunteers
Work Incentive Program (WIN)
Women
Youth

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Federal Register

Wednesday
September 4, 1985

Part III

Department of Energy

48 CFR Parts 914, 915, and 952
Acquisition Regulation; Representations and Certifications; Final Rule

DEPARTMENT OF ENERGY

48 CFR Parts 914, 915 and 952

Acquisition Regulation; Representations and Certifications

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending the Department of Energy Acquisition Regulation (DEAR) by revising the manner in which contract representations are obtained. The purpose of this rulemaking is to further reduce the paperwork burdens associated with the preparation of representations and certifications by prospective Government contractors. This effort is a part of the Department's ongoing effort to eliminate paperwork burdens in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*). The effect of this rule will be to relieve most offerors/bidders of the requirement to submit a full set of representations and certifications every time they respond to a DOE solicitation. Instead, only offerors selected for awards will be asked to submit the full representations and certifications or certify that they have already placed them on record.

EFFECTIVE DATE: This final rule will be effective October 4, 1985.

FOR FURTHER INFORMATION CONTACT:

Richard B. Langston, Procurement Policy Branch (MA–421.1), Procurement and Assistance Management, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–8264

Christopher T. Smith, Office of General Counsel, AGC for Procurement and Financial Incentives (GC–43), Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–1526

SUPPLEMENTARY INFORMATION:

I. Background

Over the years, various statutes, executive orders, and regulations have been enacted or promulgated which require that prospective Federal contractors submit certain representations and certifications prior to award of a Federal contract. Some of these are merely informational while others are necessary to determine eligibility for award. Some are required before the award of any contract while others are required only for special situations. Despite the varying nature of these representations and certifications, traditional Federal practice has been to require them all to be submitted with every bid or offer. This requirement creates an unnecessary paperwork burden on unsuccessful competitors since only the representations and certifications submitted by a successful competitor are routinely evaluated to assure eligibility for award. This practice was not seen as a problem when the representations and certifications were so abbreviated that they could literally be completed by checking a few blocks on the back of a standard form used to submit bids or proposals. With the passage of years, however, representations and certifications, depending upon the nature of the acquisition and the agency involved, now vary from one paragraph to several pages. The length of the representations and certifications when combined with their repetitious nature (that is filed with every bid or proposal submitted) has become a significant irritant to many prospective contractors. This appears especially true for small businesses who tend to submit a greater number of bids and proposals for small contracts.

After evaluating this situation, the Department of Energy authorized its Contracting Activities to adopt a simplified procedure. This new procedure, following a public comment period, was included in the DEAR as section 915.406–5 (see 49 FR 11922, March 28, 1984). The procedure allows prospective contractors to place "recurrent" representations and certifications, which generally recur and do not change from proposal-to-proposal, on file with a contracting activity for a period of three years. During that period, prospective contractors must submit only a simplified representation confirming the continued validity of the previously filed set of recurrent representations and certifications and provide some minimum administrative data.

With this final rule, after considering the comments received and amending the rule accordingly, the Department is further simplifying the process by requiring the recurrent representations and certifications only of successful offerors. Specifically, this rule will revise DEAR 915.406–5 by relieving unsuccessful offerors of the burden of submitting recurrent representations and certifications. All offerors will be asked to submit only simplified representations and certifications with their proposal. The simplified representations and certifications contain only the minimal information needed to allow a routine evaluation. Under this procedure DOE will require only the successful offeror to submit the recurrent representations and certifications, which are required for all contract awards, such as the contingent fee or the Walsh-Healey Public Contracts Act representations.

From time-to-time, it may be necessary to request one or more of a third category of representations and certifications. These are referred to as additional representations and certifications and whether they are applicable depends on the nature or subject matter of the contract. Like the recurrent representations and certifications, these representations and certifications need only be submitted by the successful offeror. Illustrative of these is the certification entitled "Jewel Bearings and Related Items Certification" of FAR 52.208–8 which is required when purchasing items containing jewel bearings. When needed, these will be described in section L of the solicitation.

II. Procedural Requirements

A. Executive Order 12291

This Executive order, entitled "Federal Regulation," requires that certain regulations be reviewed by the Office of Management and Budget (OMB) prior to their promulgation. OMB Bulletin 85–7 exempts all but certain types of procurement regulations from such review. Based on this bulletin, this rule is exempt from such review.

B. Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) which requires preparation of a regulatory flexibility analysis for any rule which is likely to have a significant economic impact on a substantial number of small entities. This rule will have no impact on interest rates, tax revenues or liabilities, the cost of goods or services or other economic factors. It will not have any indirect economic consequences such as stimulating or retarding new construction. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Paperwork Reduction Act

No new information collection and recordkeeping requirements are imposed on the public by this rulemaking. Simplified procedures have previously been cleared by OMB in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). The OMB Clearance Number is 1910–3100.

D. National Environmental Policy Act

DOE has concluded that promulgation of this rule would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and the DOE guidelines (10 CFR Part 1021), and therefore does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

III. Public Comments

A notice of proposed rulemaking, concerning this revised representations and certifications procedure, was published in the **Federal Register** (50 FR 21087) on May 22, 1985. That notice invited interested parties to submit comments through June 21, 1985. Comments were received from one university, from one organization representing research universities, and from five DOE contracting offices. The comments and our responses to them are as follows:

A. Time Delay

Two DOE contracting offices suggested that the further simplified procedure would create time delays since the representations and certifications would not be requested until an offeror is selected for award. If the Government were routinely ready to make an award concurrent with selection, this concern would be correct. It is more often that not the case however that numerous details remain to be completed after selection which will consume time during which the representations and certifications can be obtained. Examples of such post-selection activities are detailed discussions, request for certification of cost or pricing data after conclusion of negotiations, request for audit, preaward surveys, exchange of final contract documents and so forth. If the request for representations and certifications is handled concurrently with these other activities, rather than sequentially, there should not be a time delay in most instances. Although no change was made to address this comment, section 915.406–5(a)(5) permits contracting activities to request that, under special circumstances, representations and certifications be submitted before selection is made.

B. Option To Request Representations and Certifications as Part of Bid/Proposal

A commenter asked that discretion be allowed to request the representations and certifications earlier than at time of selection, for instance, as part of the proposal or from the firms determined to be within the competitive range. Since the proposed 915.406–5(a)(5), "Special Circumstances," provided such discretion, no change was required to address this comment.

C. Too Much Work for Government Contracting Office

One commenter felt that establishing a central repository at each contracting office create a situation in which the burden on the contracting office would exceed the benefit to contractors. It was seen as requiring a file clerk at each contracting office to file all the Part II submissions and significant time for other personnel to forward the Part II submissions to the central repository. The Department does not believe this to be that significant a burden. In FY84, for example, there were 9,419 contract awards but only 1,295 were new awards which would need representations and certifications. Furthermore, establishing a central repository at the local contracting office level would minimize the number of affected awards at each site and would make information more readily available. For example, in FY84 there were 43 DOE contract offices and the new contract award numbers ranged from 1 to 291. Another consideration is that there will be "repeat" contractors whose representations won't need to be refiled once they are on record. A final item to note is that the certification is a self-certification made under the penalties for false statements in bids and proposals. As such, the procedure does not require and the Department does not anticipate that contracting personnel will routinely verify the representation by reference to the repository for each subsequent award. Additional burden on government contracting personnel will not be great and will diminish as more and more contractors' representations and certifications are placed on record. The cumulative reduction of burden on contractors should be significant by comparison.

D. Single Agency Repository

Two contracting offices questioned how many repositories were contemplated and their location(s). One asked whether the first contracting office receiving a contractor's representations would become the repository for all of the Department while another suggested that the Headquarters become a single repository for the Department. While a single agency repository would be more convenient for contractors, no practical means of doing this is seen. The single repository would require a much greater resource investment and would cause cumbersome or unworkable problems as personnel in various locations around the country would, from time to time, have a need to review the record representations and certifications. The delay encountered while a record copy of recurrent representations and certifications is copied and mailed to another office to respond to an inquiry shows that this is impractical. Consequently, it is concluded that a repository established at each contracting office is the most efficient approach.

E. Applicability to Sealed Bid Acquisitions

Three commenters questioned the use of the procedure in sealed bid acquisitions. They saw a possibility that an apparent low bidder could in effect withdraw its otherwise binding bid by refusing to execute the representations and certifications. One of these even foresaw the need to have numerous bidders extend their bid acceptance dates while the Government awaited receipt of the apparent low, but possibly reluctant, bidder's representations and certifications. The concern is valid if a bidder were unable to prove a mistake in bid and for some reason did not wish to proceed with the bid it had submitted. While such a situation can be argued to be rare, it can likewise be argued that allowing a bidder to renege on a "binding" bid is injurious to the integrity of the sealed bid system. The Department agrees with this comment and has made the following changes. Specifically, the simplified representations and certifications will be handled differently for sealed bid acquisitions. This revision will necessitate a change in the guidance at 914.201–5(a) to provide an additional control in sealed bid acquisitions. Specifically, bidders will be required to submit Parts I and II with their bids unless they are able to certify in Part I that they have previously filed an acceptable Part II. A separae solicitation provision has been written for sealed bids and placed at 952.215–72.

F. Availability of Part II, Recurrent Representations and Certifications

A commenter asked whether Part II, Recurrent Representations and

Certifications, will be included in each solicitation package. Each solicitation package conducted under sealed bid procedures will contain both a Part I and a Part II. Negotiated acquisition solicitation packages would always contain a Part I while Part II could be deferred until the time of selection. In practice, at least for a reasonable familiarization period, all solicitation packages will contain both.

G. Standard Instructions

A commenter suggested that an instruction be added at 915.406–5(a)(4) regarding which Part III representations and certifications are required. This has been done through a parenthetical remark at the listing of Part III representations, 915.406–5(a)(4)(iii).

H. Citation Correction

A commenter pointed out that the citation at 952.208–71 should be corrected to read 952.406–5. That change was made. Additionally, the solicitation provision, which had been erroneously numbered 952.208–71 in the proposed rule, has been changed to read 952.215–71 in this final rule.

I. Additional Overhead Burden

One commenter suggested that the new procedure would create an additional overhead burden for both contractor and government personnel. Illustrations given were of government personnel maintaining many file cabinets of recurrent representations and certifications and contractors having to file separate representations with each DOE contracting office. Concern was also expressed that contractors with multiple offices would have to establish elaborate new communication channels to assure that all of their offices were aware of where and when representations had been placed on record.

In light of this comment, the Department reevaluated the proposed procedures. The proposed procedure does not increase the administrative burden of government personnel. Standard practice had been to obtain representations and certifications with every bid or proposal submitted. DOE simplified this, effective April 1, 1984, when it adopted a policy (See 49 FR 11922, March 28, 1984) allowing contractors who have repetitious business with a DOE office to place their representations on record with that office for a three year period. The Department is now further simplifying the process by only requiring the Part II representations and certifications from successful offerors for a contract. The proposed rule, however, contained a sentence at 952.208–71 which read "*You are welcome to submit the recurrent representations and certifications in anticipation of an award in order to avoid the inconvenience on future bids or proposals.*" That sentence could result in numerous representations and certifications being placed on record for three years by entities who might never receive a contract. This would be an unnecessary burden for the government to store the information and for the offeror to submit it. The sentence has been deleted.

The proposed and final rules have the recurrent representations being filed with individual offices rather than with a single central repository. Although this procedure will result in contractors having to file at each office with which they have contracts, this appears to be the only practical manner in which to maintain the system as was discussed at III.D above.

J. Original Signature

A commenter suggested that the further simplified procedure could not work because the original signed copy of Part II must be included in the offer and in the official contract file. Since an original signed copy of Part I, certifying to Part II, will be in the official contract file, there is no further requirement for an original signed copy of Part II in each contract file.

K. Adoption at Discretion of the Head of the Contracting Activity

A commenter suggested adoption of the further simplified representations and certifications be left to the discretion of the Head of the Contracting Activity. DOE's objective with this rulemaking is that all contracting activities adopt this simplified process in order to ensure that the full benefit to the public is achieved. To allow the HCA the option to not implement the system would contravene the objective. The proposed rule, at 915.406–5(a)(5), granted contracting personnel discretion to not use the further simplified approach under special circumstances. To ensure that this simplified process be used as often as is appropriate, the final rule has been changed to require that such discretion be approved at a level above the contracting officer on a case-by-case basis.

L. Inapplicability to Educational Institutions

A commenter suggested that nine of the recurrent representations at 915.406–(a)(4) Part II were inappropriate or unnecessary for university contracts. Indeed, four of these, designated (c), (f), (g), and (h) in the proposed rule, are duplicative of representations in Part I and have been deleted from this final rule. Item (d) of Part III of the proposed rule was deleted for the same reason. Furthermore, the other five, designated (a), (d), (e), (i), and (n) in the proposed rule, are not applicable in some circumstances and accordingly, the offeror should feel free to indicate that the representation or certification does not apply. DOE had decided not to omit such representations and certifications because the simplified procedure is a general use procedure and was not crafted to fit a particular type of contractor such as universities.

M. Short Form Research Contract

A commenter suggested that the Department adopt the Department of Defense Short Form Research Contract approach to representations and certifications which involves a simple two-page form. The Department is considering adoption of the Short Form Research Contract developed by the Office of Naval Research. This however will have to be the subject of a separate rulemaking.

N. Reclassify Some Representations

A commenter suggested that four of the recurrent representations, those designated (a), (e), (i), and (n) in the proposed rule, should be moved from Part II to Part III as they are not always applicable. Illustrative of these are the Certificate of Independent Price Determination and the Walsh-Healy Public Contracts Act representations. The first is only applicable if a fixed-price type of contract is contemplated as contrasted to a cost-reimbursement contract.

The second is only applicable to a contract for the manufacture or furnishing of supplies as contrasted to a research or service type contract. To move these to Part III will necessitate separately requesting them in each solicitation to which they are applicable. This increases the possibility that they will be overlooked. Leaving them in Part II and providing a check-off box to show that they are not applicable is considered preferable and an instruction to this effect has been added to the procedures section. [See 915.405–5(a)(3)]. This allows these items, which would seldom change, to be placed on record.

O. Only One Filing

A commenter suggested that a single filing of representations and certifications should suffice and requested that the renewal every third year be eliminated. As a practical

matter, the Department believes that changes may occur and that a periodic review is justified. Accordingly, no change has been made.

P. Only Applicable Part III Representations and Certifications Should Be Required

A commenter stated that contractors should be asked to complete only those Part III representations that are applicable to the specific contract situation. The Department fully agrees and has changed the wording of 915.405-6(a)(2)(iii) to state that "DOE will require only those pertinent representations and certifications. . ."

Q. Buy American Act Certification

A commenter suggested that the Buy America Act certification should be included at Part I rather than Part II because it would be necessary to apply any differential to the price of a nondomestic end product prior to selection. This is correct and the change has been made.

R. Other Changes

The Department added a section to Part I to allow offerors to indicate what type, if any, cost accounting standards coverage should apply to any resulting contract. The Department has added 952.215-72 to provide a standard solicitation provision for sealed bid acquisitions and has made other minor changes of a clarifying nature.

List of Subjects in 48 CFR Parts 914, 915 and 952

Government procurement.

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., August 27, 1985.

Berton J. Roth,

Director, Procurement and Assistance Management Directorate.

PART 914—[AMENDED]

1. The authority citation for Part 914 continues to read as follows:

Authority: Section 644 of the Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7254); and section 148 of the Atomic Energy Act 1954, as amended (42 U.S.C. 2168).

2. Subsection 914.201-5(a)(1) is revised to read as follows:

914.201-5 Part IV—Representations and Instructions.

(a) * * *

(1) The further simplified representations and certifications technique discussed at 915.406-5 is not to be used in acquisitions conducted under sealed bid procedures except that a bidder who has already had its recurrent representations and certifications placed on record may be allowed to certify that they are accurate and current as part of its simplified representations and certifications. The solicitation provision at 952.215-72 shall be used in sealed bid solicitations.

* * * * *

PART 915—[AMENDED]

3. The authority citation for Part 915 continues to read as follows:

Authority: Section 644 of the Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7254); and section 148 of the Atomic Energy Act 1954, as amended (42 U.S.C. 2168).

4. Subpart 915.4 is amended by revising section 915.406-5 to read as follows:

Subpart 915.4—Solicitation and Receipt of Proposals and Quotations

915.406-5 Part IV Representations and instructions.

(a) Section K, Representations, certifications and other statements of offerors or quoters.

(1) Various statutes, Executive orders, and regulations require the submission of certain representations and certifications prior to the award of a Federal contract. Some of these are merely informational while others are necessary to determine eligibility for award. Some are required before the award of any contract while others are required only for special situations. Traditional practice is to require submission of these representations and certifications with every bid, proposal, or quotation. This practice creates an unnecessary paperwork burden on unsuccessful competitors since only the representations and certifications submitted by the successful competitor are routinely evaluated to assure eligibility for award. In order to lessen the administrative expense and burden associated with the repetitious submission of representations and certifications, DOE allows offerors to use a simplified three-part approach to submitting representations and certifications and requires a complete submission only by those who have been selected for award. The essential feature of this approach, which is discussed below, is that once submitted and accepted, most representations and certifications can be placed on record with the contracting activity for a period of three years and may be incorporated by reference in subsequent bids or proposals submitted to the contracting activity unless a change occurs in one or more of the representations or certifications.

(2) *Organization.* The three-part approach to submitting representations and certifications consists of the following: Part I—Simplified Representations and Certifications; Part II—Recurrent Representations and Certifications; and Part III—Additional Representations and Certifications. The purpose of these parts is discussed in the following subparagraphs and their contents are specified in paragraph (a)(4) below.

(i) *Part I—Simplified Representations and Certifications.* When issuing negotiated competitive solicitations, DOE will request only submission of Part I—Simplified Representations and Certifications with each proposal. Part I is required as an administrative convenience for both Government and offeror personnel. It contains certain basic information which is neccessry for Government consideration prior to selection, such as who to contact for discussions and business size information which would be necessary to assure responsiveness should the solicitation be a small business set-aside. It also contains information of mutual administrative convenience such as the indication that recurrent representations and certifications have already been placed on record with the contracting office and that they remain current and correct.

(ii) *Part II—Recurrent Representations and Certifications.* Recurrent representations and certifications generally apply to all contracts which DOE awards and in the past have been submitted in a repetitious manner by all offerors. Under this approach, however, DOE will request Part II only from the source selected for award unless special circumstances pertain and approval of a different approach has been granted at a level above the contracting officer in accordance with paragraph (a)(5) below. See 914.201-5(a)(1) when sealed bids are to be solicited.

(iii) *Part III—Additional Representations and Certifications.* When required by a particular contractual situation, DOE will request only those pertinent additional representations and certifications from the source selected for award. Paragraph (a)(5) below concerning special circumstances also can be applied to those representations and certifications.

(3) *Procedures.* Each contracting office shall establish a central repository for maintenance of recurrent

representations and certifications and assure that record copies are placed in the repository for reference as may be required. The recurrent representations and certifications shall be reviewed for completeness and acceptability prior to placing them on record. If acceptable, the contracting officer shall furnish a notice advising the offeror of this fact and then place the recurrent representations and certifications on record in the central repository established for that contracting activity pursuant to local procedures. A serial number and expiration date for each recurrent representations and certifications shall be included in the notice. The serial number shall consist of the two digit office identification number associated with the Procurement and Assistance Data System, the fiscal year and a sequentially assigned identification number, e.g., the first representation placed on record by the San Francisco office in FY86 would be numbered 03-86-1. The expiration date shall be the date three years after the date of an affirmative decision that the recurrent representations and certifications are acceptable. Local procedures shall identify the individual or office responsible for maintenance of the repository. When requesting recurrent representations and certifications, a solicitation document shall allow check blocks to indicate if an individual representation is not applicable to the offeror. Such procedures shall also provide guidance for contracting offices under the contracting activity's authority. Generally, each office will be expected to maintain its own repository.

(4) *Contents.* Contracting activities shall include, at Section K of the solicitation, a requirement that the Part I Simplified Representations and Certifications be submitted with each proposal and identify which, if any, of the additional representations and certifications are required and whether they must be submitted with the proposal or may be deferred until time of selection. The categories of representations and certifications consist of the following: (i) Part I—Simplified Representations and Certifications.

(A) The offeror or bidder certifies:

(*1*) It is ( ) a Corporation, incorporated in the state of ———; ( ) an individual; ( ) a partnership; ( ) a nonprofit or educational institution; or ( ) a state or local government; and,

(*2*) It is ( ), is not ( ), a small business; is ( ), is not ( ), a small and disadvantaged business; is ( ), is not ( ), a women-owned small business; and it is ( ), is not ( ) a labor surplus area concern.

(*3*) Any end product to be furnished is ( ), is not ( ) a domestic end product. See FAR 52.225-3.

(*4*) Its Data Universal Numbering System (DUNS) establishment number is: ———:

(B) The offeror certifies that the appropriate cost accounting standards coverage, if any, for any resulting contract is:

(*1*) Inapplicable.

(*2*) Full Coverage-National Defense.

(*3*) Full Coverage-Other than National Defense.

(*4*) Modified Coverage.

(C) The offeror or bidder represents that the following persons are authorized to communicate on its behalf with the Government in connection with this solicitation: list names and telephone numbers of appropriate personnel.

Name.....
Phone.....

(D) Recurrent Representations and Certifications. If a "Part II—Recurrent Representations and Certifications" has previously been placed on record with the contracting activity, please indicate the serial number and expiration date assigned to it:

(number).....
(date).....

(E) By signing below, the offeror or bidder certifies that the representations and certifications, including any recurrent representations and certifications which may have previously been placed on record, are accurate, current and complete. The offeror or bidder further certifies that it will notify the contracting activity of any changes affecting a recurrent representations and certifications package if one has been placed on record.

Solicitation Number.....
Signature.....
Date.....
Typed Name.....
Title and.....
Address.....

Note.—The penalty for false statements of offers is prescribed in 18 U.S.C. 1001.

(ii) Part II—Recurrent Representations and Certifications.

(A) Certificate of Independent Price Determination FAR 52.203-2.

(B) Contingent Fee Representation and Agreement FAR 52.203-4.

(C) Parent Company and Identifying Data FAR 52.214-8.

(D) Place of Performance-Sealed Bidding FAR 52.214-14 or for negotiation, Place of Performance, FAR 52.215-20.

(E) Walsh-Healey Public Contracts Act Representation FAR 52.222-19 (need be completed only for contracts for the manufacture or furnishing of supplies to be performed in the United States and which exceed $10,000).

(F) Certification of Nonsegregated Facilities FAR 52.222-21.

(G) Previous Contracts and Compliance Reports FAR 52.222-22.

(H) Affirmative Action Compliance FAR 52.222-25 (not applicable to construction contracts).

(I) Clean Air and Water Certification FAR 52.223-1.

(iii) Part III—Additional Representations and Certifications. (Request only those applicable to a particular acquisition).

(A) Foreign Ownership, Control, or Influence (Representation) 952.204-73.

(B) Jewel Bearings and Related Items Certificate FAR 52.208-2.

(C) Organizational Conflicts of Interest—Disclosure or Representation 952.209-70.

(D) Recovered Material Certification FAR 52.223-4.

(E) Balance of Payments Program Certificate FAR 52.225-6.

(F) Cost Accounting Standards Notices and Certification FAR 52.230-1, or FAR 52.230-2.

(G) Technical Data Certification 952.227-80.

(H) Royalty Payments Certification 952.227-81.

(5) *Special Circumstances.* Contracting personnel may, in special circumstances, depart from the procedures specified in paragraph (a)(2) above. For example, contracting personnel may request recurrent and/or additional representations and certifications from all sources or those selected for the competitive range in negotiated procurements. Special circumstances might include situations where discussions are not anticipated following receipt of proposals and time does not permit the delay associated with requesting representations and certifications after selection. It may also be appropriate to request full representations and certifications prior to an especially important selection which may require special consideration of such topics as conflict of interest or access to classified information prior to selection. Such a decision to depart, in special circumstances, from the procedures specified in paragraph (a)(2) of this section must be approved at a level above the contracting officer on a case-by-case basis and shall not be made on a class basis.

(b) *Section L, Instructions, conditions, and notices to offerors and quoters.* A

proposal may include trade secrets and privileged or confidential commercial or financial information, which the proposer does not want disclosed to the public or used by the Government for any purposes other than proposal evaluation. Procedures for handling and protecting such data and information are discussed at 927.402-3(d)(2). Insert the solicitation provision at 952.215-71 or 952.215-72 as appropriate.

(d) *Subcontractor solicitation provisions.* Insert the notice at 952.215-70 in solicitations if the resulting contract will contain any of the clauses referenced therein.

PART 952—[AMENDED]

5. The authority citation for Part 952 continues to read as follows:

Authority: Section 644 of the Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7254); and section 148 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2168).

6. Part 952 is amended by adding new subsections 952.215-71 and 952.215-72 to read as follows:

§ 952.215-71 Simplified representations and certifications—negotiated acquisition.

As prescribed at section 915.406-5 insert the following provision in solicitations:

Simplified Representations and Certifications—Negotiated Acquisitions (AUG 1985)

In order to reduce repetitious paperwork related to various representations and certifications which must be obtained prior to the award of Federal government contracts, DOE has developed a simplified process for their submission. They have been separated into three categories:

Part I—Simplified Representations and Certifications;

Part II—Recurrent Representations and Certifications; and

Part III—Additional Representations and Certifications.

Part I is a one-page form containing a minimum amount of information which is to be submitted with every proposal. It provides the basic information necessary to process the bid or proposal. Part II contains the recurrent representations and certifications needed for all contracts. It will be requested only of successful competitors selected for award. Failure to submit Part II, upon request, will render a proposal ineligible for award. Once on record, the recurrent representations and certifications need not be completed again for a period of three years unless there is a change in one or more of the representations. Part III contains additional representations and certifications which are only when they apply to a particular acquisition. If these circumstances exist, Section K of the solicitation will contain instructions on which of these to complete. Failure to submit Part III, if requested, may render a proposal ineligible for award.

§ 952.215-72 Simplified representations and certifications—sealed bid.

As prescribed at section 915.406-5 insert the following provision in solicitations:

Simplified Representations and Certification—Sealed Bid (AUG 1985)

In order to reduce repetitious paperwork related to various representations and certifications which must be obtained prior to the award of Federal government contracts, DOE has developed a simplified process for their submission. They have been separated into three categories:

Part I—Simplified Representations and Certifications;

Part II—Recurrent Representations and Certifications; and,

Part III—Additional Representations and Certifications.

Part I is a one-page form containing a minimum amount of information which is to be submitted with every bid. It provides the basic information necessary to process the bid. Part II contains the recurrent representations and certifications needed for all contracts. Part II must be submitted with your bid unless one has previously been placed on record with the DOE contracting activity to which your bid is being submitted. Failure to submit Part II, with your bid, will render a bid ineligible for award. Once on record, the recurrent representations and certifications need not be completed again for a period of three years unless there is a change in one or more of the representations. Part III contains additional representations and certifications which are only needed when they apply to a particular acquisition. If these circumstances exist, Section K of the solicitation will contain instructions on which of these to complete. Failure to submit Part III with your bid, if requested, may render a bid ineligible for award.

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September 4, 1985

Part IV

Department of Education

34 CFR Parts 682 and 683
Guaranteed Student Loan and PLUS Programs; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 682 and 683

Guaranteed Student Loan and PLUS Programs

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations for the Guaranteed Student Loan Program (GSLP) and the PLUS Program. The proposed regulations cover the administration of the GSLP and PLUS Programs administered by State and private nonprofit guarantee agencies, the Federal Insured Student Loan Program (FISLP), and the Federal PLUS Program. The proposed regulations incorporate recent statutory changes and implement various policy initiatives intended to prevent loan defaults and to effect repayment of loans once default has occurred. Currently, the GSLP and PLUS Programs are covered by separate, though similar, regulations. The Secretary proposes to consolidate regulations of the two programs into one part.

These proposed regulations would clarify and simplify the requirements governing the GSLP and PLUS Programs, effect regulatory relief, including the reduction of paperwork and compliance burdens, provide for the improved administration of the programs, and reduce waste, fraud and abuse.

DATES: Comments must be received on or before November 4, 1985.

ADDRESSES: Comments should be addressed to Mr. Larry Oxendine, Chief, Policy Section, Guaranteed Student Loan Branch, Division of Policy and Program Development, Office of Student Financial Assistance, P.O. Box 23442, L'Enfant Plaza Station, Washington, D.C. 20026.

FOR FURTHER INFORMATION CONTACT: Cheryl Leibovitz or Larry Oxendine, Policy Section, Guaranteed Student Loan Branch, Division of Policy and Program Development, Department of Education, Room 4310, ROB-3, 7th and D Streets, SW, Washington, D.C. 20202, telephone number (202) 245-2475.

SUPPLEMENTARY INFORMATION:

Background

These proposed regulations would revise and streamline the existing regulations in several ways. These proposed rules would consolidate 34 CFR Part 682 (GSLP regulations) and 34 CFR Part 683 (PLUS Program regulations) into one part (34 CFR Part 682). The proposed rules would comply with the provisions of Executive Order 12291 by reducing burdens where possible, eliminating unnecessary duplication and clarifying the intent of existing rules. Recent statutory changes would also be incorporated into the program regulations. In order to reduce further the unnecessary duplication of regulations that apply to all title IV student assistance programs, the proposed rules would delete a number of definitions and existing rules and replace them with cross-references to the Student Assistance General Provisions Regulations (34 CFR Part 668). Provisions common to the FISL and guarantee agency programs are in this notice included in the sections covering the FISL program, with references thereto in the guarantee agency sections. The final rules will reverse this with provisions detailed in the guarantee agency sections and referenced in the FISL sections in recognition of the change in level of activity in the two programs.

The proposed regulations would also make a number of changes designed to reduce defaults and to increase collections on loans that, nevertheless, go into default. The Secretary is concerned that the magnitude of the default problem in the GSL Program has not been properly appreciated and believes that aggressive steps are necessary to address that problem. Indeed, the January budget estimate of the cost of new guarantee agency program defaults in 1985—$800 million—now appears to significantly understate the problem. The Secretary now expects the cost of new defaults to exceed $1 billion in 1985, and in each subsequent year, under current law.

One reason the deault problem has not been adequately addressed in the past stems from the way the GSLP "net default rate" has historically been measured. This rate has been calculated as the ratio of cumulative net defaults to all loans that have entered repayment, with net defaults measured as gross defaults less collections on those defaults, less defaults referred to litigation, and less defaults written off by guarantee agencies as uncollectable. The latter two exclusions—loans in litigation and loans considered to be uncollectable—distort the default rate calculation because they exclude real defaults from the final figure.

In order to ensure that the net GSLP default rate properly expresses the magnitude of the default problem, the Secretary will now calculate this rate as cumulative gross defaults less cumulative collections, divided by matured paper. Using this simpler and conceptually more correct measure helps to make the seriousness of the GSLP default problem clear:

Net default rate	Fiscal year					
	1981	1982	1983	1984	[1] 1985	[1] 1986
Old definition	3.7	3.2	3.1	3.3	4.1	4.5
New definition	8.2	7.3	7.2	7.4	8.3	9.5

[1] Estimates based on current law.

As the chart illustrates, the GSLP default problem as properly measured is quite severe. Indeed, the GSLP default rate is significantly above that for unsecured consumer loans in general. Furthermore, the net GSLP default rate as properly measured, which had been declining in recent years, is now expected to worsen substantially in the near future. It is, therefore, vital to the future viability of this program that serious steps be taken immediately to address this problem.

Important Statutory Changes Included in the Regulations

One of the major purposes of these regulations is to incorporate recent statutory amendments. The legislative amendments and their major provisions are as follows:

(1) *Education Amendments of 1980 (Pub. L. 96-374) and the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35).*

The Education Amendments of 1980 created the PLUS Program and made significant changes in the GSLP. The Postsecondary Student Assistance Amendments of 1981, contained in the Omnibus Budget Reconciliation Act of 1981, also made major changes in the GSLP and the PLUS Program.

Interest Rates. The proposed regulations reflect the current statutory provisions governing applicable interest rates for GSLP loans, which were established in Pub. L. 96-374. GSLP loans made to new borrowers for periods of instruction beginning on or after January 1, 1981, and through September 12, 1983, have an applicable interest rate of 9 percent. GSLP loans to new borrowers, for periods of instruction beginning on or after September 13, 1983, have an applicable interest rate of 8 percent. Any borrower with an outstanding GSLP loan has the same applicable interest rate on subsequent loans that he or she has on the initial loan.

Six-Month Grace Period on 9 Percent Loans. Pub. L. 96-374 provided that the grace period is 6 months for GSLP loans subject to an 8 or 9 precent interest rate. Seven percent loans still carry the 9 to 12 month grace period.

Post-Deferment Grace Period. Pub. L. 96–374 provided that GSLP borrowers are entitled to a six-month grace period following the completion of any authorized deferment period. Pub. L. 97–35 repealed this provision for all loans disbursed on or after October 1, 1981. Borrowers with loans made prior to October 1, 1981, are still entitled to receive the post-deferment grace period on those loans.

Minimum Annual Repayment. Pub. L. 97–35, affecting all loans disbursed on or after October 1, 1981, increased the GSLP borrower's minimum annual repayment to $600.

Loan Origination Fee. Pub. L. 97–35 authorized lenders to charge a GSLP borrower an origination fee of 5 percent of the principal amount of the loan, and allowed the lender to deduct this origination fee from the loan proceeds. ED deducts the 5 percent fee from the total amount of interest and special allowance payable to the lender, whether or not the lender deducts the fee from the loan proceeds paid to the borrower.

New Special Allowance Formula. Pub. L. 97–35 established a new formula for determining the special allowance rate for GSLP and PLUS Program loans made on or after October 1, 1981. The new formula is essentially the same as the previous formula except that it does not require rounding up to the nearest one-eighth of one percent.

Elimination of School Administrative Cost Allowance. Pub. L. 97–35 repealed the provision authorizing the Secretary to pay schools a $10 administrative cost allowance for each GSLP recipient enrolled. The proposed regulations would revoke the existing provisions in § 682.606 concerning this payment.

New Definition of "Estimated cost of attendance" and "Estimated financial assistance". Pub. L. 97–35 amended the definitions of "estimated cost of attendance" and "estimated financial assistance." The Secretary published these definitions as part of the PLUS Program regulations on April 21, 1982 (47 FR 17200) and amended the GSLP regulations on June 1, 1983 (48 FR 24584).

Special Allowance Payments. The statute has never prohibited lenders from making GSLP loans that do not qualify for payment of Federal interest benefits. However, Pub. L. 97–35 redefined the term "eligible loan" for purposes of determining which loans qualify for special allowance payments. Only the following loans now qualify for special allowance payments:

- loans that qualify for Federal interest benefits;
- loans made under the PLUS Program;
- loans made under the loan consolidation program of the Student Loan Marketing Association (Sallie Mae); and
- loans that were made prior to October 1, 1981.

As a result, while lenders may make loans that do not qualify for Federal interest benefits, any such GSLP loans made on or after October 1, 1981, do not qualify for payment of the special allowance.

(2) *The Department of Defense Authorization Act, 1983 (Pub. L. 97–252).*

Pub. L. 97–252 amended the Military Selective Service Act. These amendments mandated that, beginning with the 1983–84 academic year, any student who is required to be registered with the Selective Service and fails to do so is ineligible to receive the benefits of any title IV student assistance program. Final regulations implementing this requirement were published on April 11, 1983 (48 FR 15578), modified on June 28, 1985 (50 FR 26950), and are found in 34 CFR Part 668 (the Student Assistance General Provisions Regulations). Section 682.515 of these proposed regulations would establish procedures that a lender must follow when informed by a school that a student has failed to meet the loan eligibility requirements, including those pertaining to Selective Service registration in 34 CFR 668.24.

(3) *The Student Loan Consolidation and Technical Amendments Act of 1983 (Pub. L. 98–79).*

Disclosure of Information to Student Borrowers. Pub. L. 98–79 eliminated disclosure requirements which had been in effect since the Student Financial Assistance Technical Amendments Act of 1982 (Pub. L. 97–301) and established new disclosure requirements. These requirements are identified in the proposed § 682.507.

Non-Discrimination. This provision specifies that no lender may deny benefits of the GSLP or PLUS Program on the basis of race, national origin, religion, sex, marital status, age or handicapped status.

Repayment Status. Prior to Pub. L. 98–79, repayment of GSLP loans began 6 months following *the date* a student ceased to be enrolled as at least a half-time student at an eligible institution. Since it is often difficult for schools to establish the specific date on which a student ceased to be enrolled, many lenders had difficulty in complying with the "date specific" provision. Pub. L. 98–79 makes it easier for the lender to determine when the repayment period starts by specifying that the repayment period begins 6 months following *the month* in which the student ceased at least half-time enrollment.

Elimination of Deferments for Parent Borrowers Under the PLUS Program. Pub. L. 98–79 eliminated deferments for parent borrowers under the PLUS Program for all loans disbursed on or after August 15, 1983.

The Secretary's Pending Proposals for Changes to the GSLP and PLUS Program Statute. The Secretary has proposed a number of programmatic changes in connection with the 1986 Budget request for the GSLP and the PLUS Program. These proposals include a family income eligibility limit for participation in the GSLP or FISL Program, an overall dollar limit on all Title IV aid awards (excluding PLUS), a student self-help requirement of $800, a tightened definition of independent student, a requirement of a high school degree or GED equivalent for aid eligibility, extension of need analysis to families with less than $30,000 in income, the tying of GSLP and PLUS Program borrower interest rates to market rates, the conversion of the GSLP special allowance to a flat percentage of loan principal, the elimination of special allowance on PLUS loans, and the establishment of a 1-percent PLUS guarantee fee to cover PLUS default costs, a reduction in the initial reinsurance percentage available to guarantee agencies from 100 per cent to 90 per cent with a revised trigger rate, the elimination of future administrative cost allowances and advances to guarantee agencies, the repayment to ED by guarantee agencies of outstanding advances, and a requirement that lenders disburse all GSLP loans in multipe installments while receiving interest benefits and special allowance payments only on amounts actually disbursed. The Secretary believes that changes such as these, which improve targeting of aid on needy students and reduce unnecessary and excessive subsidies, are important for the future viability of these programs and that they should be enacted by the Congress as a part of the 1986 Budget. It is the Secretary's practice, however, to promulgate program regulations based on existing statutory provisions. These proposed regulations reflect current law only, and may require substantial revisions to conform with statutory changes resulting from the Secretary's legislative proposals.

Other Regulatory Changes

Terminology

The proposed regulations would substitute "guarantee" for "insurance," "guarantor" for "insurer," *etc.*, in many

places throughout the regulations, in order to reflect more accurately the relationship between the guarantor, the lender, and the borrower on a GSLP or PLUS Program loan. As a number of recent Federal court decisions have made clear, it is imprecise to speak of the Secretary or a guarantee agency as "insuring" a loan, because the "insurance" is provided at the borrower's behest. *See, e.g., U.S.* v. *Tilleraas*, 709 F.2d 1088 (6th Cir. 1983); *U.S.* v. *Frisk*, 675 F.2d 1079 (9th Cir. 1982); *U.S.* v. *Bellard*, 674 F.2d 330 (5th Cir. 1982). This consensual relationship between a borrower and the Secretary or a guarantee agency typifies a common law guarantee relationship. The proposed regulations, in deference to long-standing usage, would retain the term "insurance premium," notwithstanding the fact that a GSLP or PLUS Program insurance premium is incident to a guarantee transaction and does not currently begin to cover the costs and risks to the guarantor of its guarantee obligation.

Scope of Judicial Review Provisions

It is sometimes asserted that a court must exercise *de novo* review of certain decisions of the Secretary under the GSLP and PLUS Program because of the use of various agreements therein. The proposed regulations would include finality clauses as terms of such agreements and contracts with respect to each decision of the Secretary as to which *de novo* review might arguably apply. These clauses provide that certain decisions by the Secretary are conclusive and binding on affected parties. A finality clause in a contract with the United States does not preclude judicial review of a decision covered by the clause. Rather, it brings judicial review of such a decision within the provisions of the Wunderlich Act, 41 U.S.C. 321–322, which provides for substantially the same standards of review as those found in the Administrative Procedure Act. *See* 5 U.S.C. 706. Thus, the proposed regulations would clarify that the standard of review that would ordinarily be expected to apply to the Secretary's actions does in fact apply, and would preclude application of a *de novo* review standard.

Proposed Deletion of Current 34 CFR 682.518 and 683.67

The proposed regulations would delete the current provisions governing the Secretary's collection efforts after payment of a default claim on a FISLP or Federal PLUS Program loan, found at 34 CFR 682.518 and 683.67, respectively. The Secretary will continue aggressively to collect loans on which such claims are paid, in accordance with applicable laws. The current provisions, which contain broad rules as to when the Secretary will refrain from collecting a loan in default, inappropriately restrict the Secretary's discretion in such matters. By omitting these rules, the proposed regulations would permit the Secretary to exercise the full discretion accorded by 20 U.S.C. 1082(a)(5) and (a)(6) to decide, on a case-by-case basis, whether the interests of the United States are served by refraining from collection on all or part of a defaulted loan.

Subpart B—General Provisions

(1) *Section 682.200 Definitions.*

Many definitions contained in this section would be replaced by cross-references to 34 CFR Part 668, *Student Assistance General Provisions*, revisions of which will soon be published in the **Federal Register**.

"Enrolled". The proposed regulations would modify this definition to require that a student attend classes in order to be considered enrolled. This proposed change would preclude the possibility of a student registering for classes and receiving the proceeds of the loan check, but never attending class. This change would also conform this definition to definitions in other Title IV programs.

"Graduate or professional student". This definition would be revised to preclude a student's being considered as a graduate or professional student for GSLP purposes and an undergraduate student for other Title IV purposes. In order to be considered a graduate or professional student a borrower must be enrolled in courses above the baccalaureate level. Graduate or professional students would include borrowers who enter a professional school after completing at least three years of an undergraduate program. Borrowers in the fourth or fifth year of an undergraduate program that culminates in a baccalauerate degree would not be considered graduate or professional students.

"Totally and permanently disabled". The proposed regulations would adopt the definition of "totally and permanently disabled" currently used by the National Direct Student Loan (NDSL) Program. The NDSL Program definition is clearer and more precise than that found in current GSLP and PLUS Program regulations.

(2) *Section 682.201 Eligible borrowers.*

This section would be revised to require permanent residents and those who are in the United States for other than a temporary purpose to provide evidence of such permanent residency, or of the intent to become a permanent resident. The Secretary is proposing this requirement in response to a recommendation by the General Accounting Office and to ensure that only eligible borrowers receive loans.

This section would also be revised to make any individual in default on a GSLP, PLUS or National Direct Student Loan Program loan ineligible for a GSL or PLUS loan regardless of which school the borrower attended with the proceeds of the prior loan. This change would effect no major change in existing practice respecting prior GSLP and PLUS defaults by prospective borrowers, since current practice at most guarantee agencies already precludes new loans to such borrowers.

(3) *Section 682.202 Permissible charges by lenders to borrowers.*

This section would be revised to require that the lender return the origination fee to the borrower, through a credit to the borrower's account, if the loan check is uncashed or if the loan is repaid in full within 60 days of disbursement.

(4) *Section 682.206 Prohibition against the use of the Rule of 78's.*

Proposed § 682.206 would prohibit lenders from using the "Rule of 78's" in their various calculations. Some lenders use this method for computing the rebate of unearned interest to borrowers who prepay their loan, or for determining the outstanding principal balance and earned interest for purposes of special allowance and Federal interest benefits. This change is proposed because of the often dramatic differences between the results obtained by the use of Rule of 78's and those obtained by the use of an actuarial method.

Subpart C—Federal Payments of Interest and Special Allowance

(1) *Section 682.300 Payment of interest benefits on a GSLP loan.*

Proposed § 682.300(b) would limit to 90 days the period in which interest benefits are paid on a loan as to which the check is not cashed. A corresponding change is proposed in § 682.302(d) with respect to special allowance payments. ED has found that some lenders have been billing for interest and special allowance on loans for which the checks have remained uncashed for extended periods of time.

(2) Section 682.301 and Appendix B are reserved for the GSL Family Contribution Schedule. The 1985–86 Family Contribution Schedule (FCS) published on April 8, 1985, at 50 FR 13916, is found in current regulations in

§ 682.301 (Eligibility for Interest Benefits on a GSLP loan) and Appendix B to Part 682 (Guaranteed Student Loan Program Tables for Determination of Expected Family Contribution for 1985–86). Since the provisions of the 1985–86 and 1986–87 GSL Family Contribution Schedules are mandated by statute (the Student Financial Assistance Technical Amendments Act of 1982, Pub. L. 97–301), as amended by Section 4(b) of the Student Loan Consolidation and Technical Amendment Act of 1983 (Pub. L. 98–79) and the Education Amendments of 1984 (Pub. L. 98–511), the Secretary expects to republish the applicable FCS, when these proposed rules are promulgated as final regulations.

(3) *Section 682.302 Payments of special allowance on a GSLP or PLUS Program loan.*

This section would be revised to incorporate the Department's long-standing view that the Secretary's obligation to pay special allowance terminates when a loan ceases to be guaranteed.

(4) *Section 682.303 Methods for computing interest benefits and special allowance.*

This section would be revised to discontinue lender's use of the average quarterly balance method for computing interest benefits and special allowance. This change is proposed to assure that the amount of interest benefits and special allowance paid by the Secretary accurately reflects the number of days a loan is outstanding and held by the lender. In addition, elimination of the average quarterly balance method would preclude the Secretary's payment of more interest benefits and special allowance on loans that are transferred between two lenders than on loans that are never transferred. Under the current system, this can occur when one party to the transfer uses the average quarterly balance method and the other does not. The remaining methods—average daily balance and actual accrual—produce the same results with respect to the amount of interest benefits and special allowance payable by the Secretary. Both methods are included for the convenience of lenders with different approaches to portfolio administration.

(5) *Section 682.304 Procedure for payment of interest benefits and special allowance.*

This section would discontinue the use of semi-annual and annual billings by lenders for interest benefits and special allowance, since very few lenders bill for interest benefits and special allowance on other than a quarterly basis. Lenders report on each billing the amount of loans made during the billing period, so that the loan origination fee can be calculated and deducted from any amount due the lender.

The Secretary considers it important to the fiscal integrity of the GSLP and PLUS Program that lenders submit billings for interest benefits and special allowance in a timely manner. Proposed § 682.304(c) would define a timely billing as one received by the Secretary within 90 days following the end of a quarter.

Subpart D—Guarantee Agency Programs

(1) *Section 682.401 Basic program agreement.*

(a) Proposed § 682.401(b)(5) would conform loan disbursement procedures for guarantee agency loans to those under the FISLP and the Federal PLUS Program. This change is designed to facilitate lender participation by establishing uniform loan check procedures.

(b) Similarly, proposed § 682.401(b)(10)(ii) would conform disclosure requirements, forbearance policies, and the consequences of a borrower's failure to establish eligibility for guarantee agency loans to the FISLP and the Federal PLUS Program.

(c) Proposed § 682.401(b)(11) would require each guarantee agency to establish and utilize a system for monitoring the enrollment status of student borrowers and to report any relevant status changes, as reported by a school, to the lender within 60 days.

(2) *Section 682.402 Death, disability, and bankruptcy payments.*

(a) Proposed § 682.402(c), *Claim procedures for a loan held by a lender*, would conform the documentation and timely filing requirements for death, disability and bankruptcy claims under guarantee agency programs to those under the FISLP and the Federal PLUS Program.

(b) Proposed § 682.402(d) would revise the treatment of bankruptcy claims by guarantee agencies. GSLP and PLUS loans may not be discharged in bankruptcy during the first five years of repayment, unless the borrower petitions the bankruptcy court and is granted a hardship waiver. After a lender has submitted a bankruptcy claim to the guarantee agency, the agency would pay the lender the amount owed and hold the loan until it is determined that the loan is, or is not, discharged by the bankruptcy court. If the loan is discharged, the agency would submit a bankruptcy claim to the Secretary for reimbursement. If the loan is not discharged, the guarantee agency may elect to hold and service the loan as the lender or have the lender which submitted the claim repurchase the loan.

(3) *Section 682.404 Federal reinsurance agreement.*

(a) Proposed § 682.404(a)(2) would clarify that the Secretary's reimbursement of "losses" incurred by a guarantee agency include only the amount of unpaid principal and accrued interest that the agency has paid to a lender on a default claim.

(b) Proposed § 682.404(e)(5) would require the agency to refund to the Secretary a portion of the proceeds derived from the sale of an asset which was purchased, in whole or in part, with funds retained from collections. A corresponding proposal is found in § 682.407(b)(3) with respect to assets purchased with administrative cost allowance payments.

(4) *Section 682.405 Supplemental Federal reinsurance.*

This proposed section would amend the formula for determining a guarantee agency's reinsurance percentage to exclude from the formula claims filed under a guarantee agency policy either required by § 682.401(b)(10)(ii)(F) or consistent with § 682.516(a)(1). These claims include any claims filed because it was determined, after the loan was made, that the borrower was enrolled in an ineligible program, failed to meet citizenship or residency requirements, or did not qualify for Federal interest benefits, or that the borrower's school closed during the academic period covered by the loan. The Secretary is proposing this change to prevent guarantee agencies from being penalized for paying claims to its lenders on loans that do not involve ordinary defaults.

(5) *Section 682.408 GSLP loan disbursement through a guarantee agency escrow agent.*

The Education Amendments of 1980 (Pub. L. 96–374) authorized guarantee agencies to establish an escrow system under which the guarantee agency, or its agent, would receive GSLP loan disbursement from certain lenders and would transmit those funds to borrowers in multiple installments. These proposed regulations would allow disbursements to the escrow agent (*i.e.*, the guarantee agency or its agent) to be made in bulk, by electronic transfer, or in any form upon which the escrow agent and lender agree. The escrow agent would transmit loan funds directly to the school by means of a check made payable to the borrower and the school. The check transmitted from the escrow agent to the school would contain, or be accompanied by, a notification to the school that it is part of a multiple disbursement. The escrow agent would

be required to make at least two disbursements during the loan period, according to a schedule that the escrow agent would give to the borrower at the time of the first disbursement. The promissory note would include a reference to the schedule of disbursements.

The escrow system is designed to preserve the student's access to GSLP loan funds as educational costs are incurred, while reducing the Secretary's potential liability in the event that the student ceases attendance at the school. In such cases, loan funds remaining in escrow would be sent directly from the escrow agent to the lender and credited as a prepayment to the student's outstanding loan balance.

The Secretary does not favor the guarantee agency escrow mechanism as a means of reducing defaults involving students who drop out, because it unfairly permits the guarantee agency to reap the benefit of the "float" on loan funds it holds in escrow, rather than the borrower or the Federal taxpayers. Current multiple disbursement procedures are similarly unfair to the taxpayers, because they permit lenders to bill the Federal government for interest benefits and special allowance payments on undisbursed loan amounts. The fairest and least costly means for expanding the use of multiple disbursement of loans is simply to require lenders to disburse all loans in multiple installments, as the Secretary has proposed in connection with the 1986 Budget request, with interest benefits and special allowance payments made only on funds actually disbursed. If this proposal is enacted into law, of course, the guarantee agency escrow mechanism will be unnecessary, since it pertains only to loans not already disbursed in multiple installments by lenders. These proposed regulations would provide needed controls on the guarantee agency escrow mechanism in the event that the Congress declines to enact the Secretary's proposal.

(6) The Secretary requests comment about regulating the management practices and structure of State lenders or State secondary markets that are closely affiliated with guarantee agencies, often under identical management. Although such an arrangement may be cost-effective, since the two organizations can share certain equipment and support services, it raises serious concerns about the independence of decisions made by each organization, one serving as a lender or holder of student loans, and the other as the guarantor of those same loans. In such a situation the potential for conflicts of interest is great, especially when the guarantee agency is responsible for reviewing the program participation of the lender to determine compliance with applicable laws and regulations. The Secretary is therefore seriously considering, and requests comments on, including in the final rule the following requirements concerning the management structure and practices of State lenders, secondary markets, and servicers and affiliated guarantee agencies:

(a) Separation of decision-making authority for policy and procedures (e.g., separate boards of directors);

(b) Diligent oversight by the guarantee agency of the affiliated lender, secondary market, or servicer to ensure the latter's compliance with applicable laws, regulations and policies;

(c) Separation of personnel in areas of activity that involve potential conflicts of interest;

(d) Complete separation of files and filing systems;

(e) Separate deposit arrangement and accounting for all revenues and costs; and

(f) Separation of all operational activities that cannot be combined without creating a potential conflict of interest, such as guarantee issuance and lending decisions, and due diligence activities and claims review activities.

(7) A number of additions to, and revision of, existing regulations are proposed to ensure the administrative and fiscal integrity of the GSLP and the PLUS Program and to ensure that the Secretary is not exposed to unreasonable risks of loss.

(a) The proposed regulations would delete current § 682.403, *Federal advances for reserve funds,* since no additional advances have been authorized under section 422(a) of the act since 1968. The proposed regulations would, however, establish requirements for the maintenance an use of an agency's reserve fund in § 682.410(a). Except for restrictions on the use of loan insurance premiums, current regulations governing the reserve fund apply only as long as the agency retains Federal advance funds. The reserve fund requirements of proposed §682.410(a) would apply to all guarantee agencies. The proposed content and uses of the reserve fund are essentially the same as the requirements in existing regulations, except that administrative cost allowance payments from the Secretary would now be deposited in the agency's reserve fund. The guarantee agency could then use those payments to defray future administrative costs.

Proposed section 682.410(b)(3) would establish specific procedures for guarantee agencies to follow regarding the exercise of due diligence in collecting loans they hold. One proposed provision, section 682.410(b)(3)(vii), would require a guarantee agency to sue every borrower who defaults on a loan held by the agency, if the agency's collection efforts are unsuccessful. A related provison, section 682.410(b)(3)(x), would require agencies to adhere to criteria and procedures approved by the Secretary for "writing off" loans on which its collection efforts have been unsuccessful. The Secretary is developing a model set of write-off criteria and procedures, based on the Federal Claims Collection Standards, to aid agencies in formulating their write-off policies, and to use as a guide in reviewing proposed agency policies in this area. The Secretary emphasizes that the write-offs at issue do not entail excusing the borrower from repayment of the loan; they are not Federal write-offs. Rather, they involve merely the cessation of collection activity by the agency on the loan.

A number of issues in this area are still under discussion. The Secretary is therefore particularly interested in comments regarding guarantee agency write-off criteria and procedures.

(b) Proposed § 682.412 would retain existing provisions on remedial actions available to the Secretary against a guarantee agency that violates program requirements. Proposed §§ 682.406 and 682.412 would also specify the circumstances under which a lender or guarantee agency is not entitled to, and therefore must repay, interest benefits, special allowance, or reinsurance payments on a GSLP or PLUS Program loan, in the absence of a waiver by the Secretary of the right to refuse to make, or require reimbursement of, such payments. A guarantee agency would continue to be required to demonstrate its compliance with Federal rules, including proposed §§ 682.406 and 682.411, in the event an audit or program review questions its right to payments by the Secretary under this part. The program statute, and current regulations, permit the Secretary to recover, or refuse to make, certain interest benefits and special allowance payments to a lender, and reinsurance payments to a guarantee agency, on a loan as to which the lender is in violation of a guarantee agency rule that affects guarantee coverage. Current regulations also permit the Secretary to recover, or refuse to make, reinsurance payments to an agency that makes an incomplete or incorrect statement in connection with

any agreement entered into under the GSLP or PLUS Program. Proposed §§ 682.406 and 682.412 would provide greater clarity regarding the Secretary's rights in these areas, and thus, it is believed, greater compliance with guarantee agency and federal rules.

Proposed sections 682.412 (a)(2) and (b)(2) refer to policies and procedures which a guarantee agency may establish, allowing for the reinstatement of guarantee coverage on a loan as to which the lender has violated a condition of guarantee coverage set by the agency. These policies and procedures would require the approval of the Secretary. The Secretary intends to use the FISLP "cure" policies set forth in Bulletin L-77a (Appendix C to these proposed rules) as a guide in reviewing proposed guarantee agency policies in this area.

While the program statute and current regulations require a guarantee agency to exercise due diligence in the collection of loans and to protect the United States from unreasonable risks of loss, they do not set forth a specific time period within which a guarantee agency must act on a default claim submitted by a lender. The Secretary has interpreted the statute and regulations as requiring an agency to act on a default claim within 90 days of receipt by the agency. Proposed §§ 682.406(b) and 682.412(b)(3) would incorporate the 90-day period into the regulations and provide that an agency may not receive reinsurance reimbursement for interest accruing on a loan after the end of this period.

Similarly, while the statute and current § 682.405(f)(1)(ii) prohibit a lender from neglecting collection on a loan for substantial periods of time, they do not set forth a specific deadline by which a lender must file a claim with the guarantee agency after default. Instead, current regulations require that the agency establish rules for the timely filing of claims by its lenders. A number of agencies have been slow in doing so, however. In addition, the administrative burden on the Secretary of reviewing and approving agencies' timely filing and other rules unduly taxes the Secretary's available resources. Thus, proposed § 682.406(a)(4) would establish a uniform filing deadline for default claims of 90 days from default, and would further specify that the Secretary does not make a reinsurance payment on a default claim that is filed later than 90 days after default.

(c) *Section 682.409 Assignment by guarantee agencies of defaulted loans to the Secretary.*

The Secretary proposes procedures to implement the statutory authority of section 428(c)(8) of the Act concerning the assignment to the Secretary by guarantee agencies of defaulted loans on which the Secretary has paid reinsurance claims. The Secretary intends to use this authority wherever appropriate to reduce the disturbingly high amount of loans on which agencies have been unsuccessful in collection after payment of default claims to lenders.

Proposed § 682.409 would establish general assignment procedures and the basic documentation that would be required for loans that the Secretary selects for assignment. It would be extremely difficult, if not impossible, to establish a single set of specific standards for selecting loans for assignment that would take into consideration the unique circumstances of each loan and each guarantee agency. The proposed regulations, therefore, do not include such a set of standards. Instead, the decision will be made on a case-by-case basis as to which loans, or categories of loans, will be selected for assignment. The Secretary may consider factors such as the adequacy of the guarantee agency's collection system, the agency's default rate, the total dollar amount in default, and any trends in those areas, in deciding whether a particular agency's loan portfolio should be closely examined for purposes of requiring the agency to assign loans to the Secretary. In the event such an examination is conducted of an agency's portfolio, the Secretary may require assignment of the entire portfolio, or of only certain types of loans within it, such as loans made to Federal employees, loans barred or soon to be barred by the statute of limitations, loans written off by the agency, or loans as to which the agency's collection efforts have been completed without success. The Secretary may also require assignment from all agencies of all loans of a particular type, such as loans to Federal employees or loans as to which the exercise of offsets against Federal income tax refunds due the borrowers is appropriate. The Secretary does not plan, at this time, to require the assignment of a loan as to which the agency's collection efforts are successful in inducing the borrower to honor the repayment obligation. The Secretary requests comments on this approach, on the proposed loan categories set out above, and on any other approaches, factors, or loan categories relevant to this issue.

(d) *Section 682.411 Due diligence by lenders in the collection of guarantee agency loans.*

This proposed section would establish minimum collection requirements for lenders administering guarantee agency loans. These standards, which were developed in consultation with the National Council of Higher Education Loan Programs, would help to protect the Secretary from unreasonable risks of loss and improve the collection of loans nationwide.

(e) *Section 682.412 Remedial actions.*

Current §682.405(f)(1)(ii) requires, as a term and condition of the reinsurance agreement, that a guarantee agency assure the Secretary that, as to each reinsurance claim it files, the lender has made all reasonable efforts to collect the underlying loan. Current § 682.400(c) sets forth the Security's remedies when on agency gives a warranty, under § 682.405(f)(1)(ii), on a loan as to which the lender has not exercised due diligence in collection. Under proposed § 682.412, these remedies would similarly be available for a violation of proposed § 682.411.

Subpart E—Federal Insured Student Loan Program and Federal PLUS Program

(1) *Section 682.501 - Extent of Federal guarantee under the FISLP and Federal PLUS Program.*

This proposed section would amend the formula for determining a State lender's guarantee percentage to exclude from the formula claims filed under §§ 682.515 and 682.516. These claims include, but are not limited to, any claims filed because it was determined, after the loan was made, that the borrower was enrolled in an ineligible program, failed to meet citizenship or residency requirements, or did not qualify for Federal interest benefits, or that the borrower's school closed during the academic period covered by the loan. The Secretary is proposing this change to prevent lenders from being penalized for filing claims that do not involve ordinary defaults.

(2) *Section 682.508 Due diligence in making and disbursing a loan.*

This proposed section would require that the lender make the loan check (except in the case of a PLUS Program parent borrower or a borrower attending a foreign school) co-payable to the borrower and the school and that the lender send the check to the school. This change is designed to assure that the school is made aware of when a loan is made and the amount of that loan, to give the school greater control over student loan proceeds, and tc assure that the loan proceeds are used for educational expenses.

Loan checks for parent borrowers would be excluded from this provision

because, unlike a student borrower enrolled at the school for which the loan was intended, a parent borrower will not be at the school to receive the check. Processing a check through the school in these circumstances would be a cumbersome and administratively burdensome process for both the parents and the school. The Secretary proposed that loan checks for student borrowers attending foreign school would be exempt from these provisons. The Secretary, however, requests comment on this proposed exception.

(3) *Section 682.510 Repayment of loans.*

The Secretary proposes the elimination of the provision that lenders currently are permitted to add to the promissory note requiring the borrower to execute a repayment schedule not less than 120 days before the end of the grace period. The 120-day provision was originally authorized when the Secretary did not guarantee interest and was designed to allow lenders to file a default claim as soon as possible, if necessary, thereby minimizing the loss of interest income. Since interest is now guaranteed, and since most GSLP loans now have a six-month grace period instead of a nine- to twelve-month grace period, this procédure is no longer necessary or practical. Holders of outstanding loans that carry the 120-day clause in the promissory note and that have not yet entered the repayment period may, without penalty, decide not to enforce this provision in the note.

(4) *Section 682.511 Deferment.*

(a) This proposed section would establish that an authorized deferment period begins on the earlier of the date the lender approves the borrower's request for deferment or the date the deferment began, not to exceed 60 days prior to the lender's approval. Current regulations specify that an authorized deferment period begins when the condition entitling the borrower to a deferment first exists.

(b) The requirements for an authorized deferment of repayment for volunteer service in the Peace Corps or ACTION programs would be modified to require full-time service for a minimum of one year. This provision would be revised since the Peace Corps and ACTION programs are now allowing volunteers to have service periods for as little as a few months. The intent of these deferments is to accommodate borrowers serving as volunteers for an extended period of time. This change would be consistent with the minimum one year of service that is required for a deferment for volunteer service, comparable to that in the Peace Corps or ACTION programs, with a tax-exempt organization.

(c) The Secretary proposes to codify as criteria, in § 682.511(g), the factors that have generally been considered in determining if a borrower is serving in an eligible internship program.

(5) *Section 6282.513 Due diligence in collecting a loan.*

In cases where the borrower enters the repayment period without the lender's knowledge, the Secretary proposes to allow the lender 30 days from the date it learns of this situation to establish the repayment terms and obtain a payment or otherwise determine that the borrower intends to honor the repayment obligation before sending the borrower a notice as required in § 682.513(b).

(6) *Section 682.521 Procedures for receipt or retention of payments where the lender has violated program requirements for FISLP loans.*

The Secretary proposes to establish procedures for curing violations of the due diligence in collection and timely filing of claims requirements by republishing, as Appendix C to Part 682, Bulletin #L-77a (January 7, 1983). References in the Appendix to §§ 682.511 and 682.516 should be understood to refer to §§ 682.513 and 682.518, respectively, of these proposed rules. If Appendix C is included in the final rule, all regulatory citations will be revised to reflect the section numbers adopted in the final rule.

Subpart F—Requirements, Standards, and Payments for Participating Schools

(1) *Section 682.605 The borrower's loan check.*

This proposed section would require that almost all GSLP loan checks be made jointly payable to the student and the school and that they be sent directly to the school. A school would be required to verify that the student is maintaining satisfactory academic progress and is enrolled, or has maintained enrollment, on at least a half-time basis before releasing any funds. Presently, a school is required only to verify that the student is enrolled, and has maintained enrollment, on at least a half-time basis before releasing any funds. Other Title IV programs require that the school also verify satisfactory progress before releasing funds.

The Secretary has decided not to propose establishing regulatory authority for schools to maintain escrow systems for disbursing to borrowers loan proceeds received from lenders. Such systems, which would be similar to the guarantee agency escrow systems discussed above, would unfairly permit schools, rather than borrowers, to reap the "float" on loan funds disbursed in advance of need. As noted above, the Secretary believes that his proposal to amend the statute to require lenders to disburse all GSLP loans in multiple installments, with interest benefits and special allowance payments made only on funds actually disbursed, is the best way to handle the "float" question—in effect, giving it to the Federal taxpayers—and would also greatly reduce default costs associated with mid-year, mid-program dropouts.

(2) *Section 682.606 Determining the date of a student's withdrawal.*

This proposed section would delete the current provision that allows a borrower to take more than one leave of absence. Given the single leave of absence that may still be granted by the school, the six-month grace period provides an adequate period of time to make arrangements to return to school. If a student returns to school on at least a half-time basis before the expiration of the six-month grace period, the student is entitled to the full six-month grace period after later dropping below half-time attendance.

(3) *Section 682.608 Payment of a refund to a lender.*

Under proposed § 682.605, *The borrower's loan check*, if, after receiving a loan check for a student, the school determines that the student has not enrolled as expected, the school would have to return the check to the lender within 30 days of this determination. This proposed section would reduce from 40 days to 30 days after the determination that a refund is due the time within which a school must return the refund to the lender. This change is proposed so that the two sections will be consistent.

Subpart G—Limitation, Suspension, or Termination of Lender Eligibility Under the Guaranteed Student Loan Program and the PLUS Program

Regulation governing the limitation, suspension, or termination of lender eligibility currently apply only to lenders under the FISLP (Subpart G of 34 CFR Part 682) and the Federal PLUS Program (Subpart F of 34 CFR Part 683). Subpart G of these proposed regulations is essentially the same as current regulations. The Secretary is, however, proposing to make this Subpart applicable to lenders that participate in guarantee agency programs.

Subpart H—[Reserved]

On February 10, 1984, the Secretary published at 49 FR 5330 proposed regulations to govern the approval of the

Plan for Doing Business submitted to the Department of Education by Authorities that issue tax-exempt obligations in order to secure funds to make, purchase, or provide financing for loans under the GSLP and the PLUS Program. On February 8, 1985 the Secretary published final regulations at 50 FR 5506 under *Subpart H—Special Allowance Payments on Loans Made or Purchased With Proceeds of Tax-Exempt Obligations*, and will republish those regulations when these proposed rules are promulgated as final regulations.

Appendix A—[Reserved]

No changes to Appendix A of 34 CFR Part 682 and 34 CFR Part 683 (Standards for Acceptable Refund Policies by Participating Schools) are included in these proposed regulations. Therefore, the Secretary is not publishing Appendix A as part of this notice of proposed rulemaking, but will republish it as part of the final regulation.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

Many provisions of the regulations repeat statutory requirements. Certain reporting, recordkeeping, and compliance requirements are imposed on guarantee agencies, lenders and schools by the regulations. These regulations, however, are modeled on existing GSLP and PLUS Program regulations and will not have a significant economic impact on these institutions. Participating guarantee agencies are reimbursed for their costs.

Invitation To Comment.

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before the 60th day after publication of this document will be considered before the Secretary issues final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in ROB-3, Room 4310, 7th and D Streets SW, Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

It has not yet been determined if public hearings will be held. In the event they are, the public will be advised—through a notice published in the Federal Register—of the specific times and locations for each meeting.

It would be extremely helpful if comments are identified by specific sections of the NPRM and are made sequentially.

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Paperwork Reduction Act

Sections 682.304, 682.305, 682.401, 682.402, 682.407, 682.408, 682.409, 682.411, 682.413, 682.507, 682.511, 682.513, 682.518, 682.522, 682.601, 682.602, 682.603, 682.604, and 682.610 contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these proposed regulations to the Office of Management and Budget (OMB) for its review. Although preparation of this NPRM resulted in extensive consideration of the imposition of information collection and recordkeeping requirements, the Department is particularly interested in comments on ways to further reduce the paperwork burden imposed in this program. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, D.C. 20503; Attention: Joseph F. Lackey, Jr.

All comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 682

Administration practice and procedure, Colleges and universities, Education, Loan programs—education, Student aid, Vocational education.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Number 84.032, Guaranteed Student Loan Program and PLUS Program)

Dated: August 29, 1985.

William J. Bennett,

Secretary of Education.

PART 683—[REMOVED]

The Secretary proposes to remove Part 683 and to revise Part 682 of Title 34 of the Code of Federal Regulations to read as follows:

PART 682—GUARANTEED STUDENT LOAN AND PLUS PROGRAMS

Subpart A—Purpose and Scope

Sec.

Subpart B—General Provisions

Subpart C—Federal Payments of Interest and Special Allowance

Subpart D—Guarantee Agency Programs

Authority: Title IV, Part B, of the Higher Education Act of 1965, as amended (20 U.S.C. 1071–1087–2), unless otherwise noted.

Subpart A—Purpose and Scope

§ 682.100 The Guaranteed Student Loan and PLUS Programs.

(a) This part governs two programs in which lenders use their own funds to make loans to enable students to pay the costs of attending postsecondary schools:

(1) The *Guaranteed Student Loan Program (GSLP),* which encourages the making of loans to undergraduate, graduate, and professional students.

(2) The *PLUS Program,* which encourages the making of loans to independent undergraduate students, graduate and professional students, and parents of dependent undergraduate students to help pay for the student's costs of education.

(b)(1) A guarantee agency guarantees lenders against losses due to default by the borrower on GSLP and PLUS Program loans. If the guarantee agency meets certain Federal requirements, the guarantee agency is reimbursed by the Secretary for all or part of the default claims it pays.

(2) The Secretary guarantees lenders against losses, within the GSLP, on Federal Insured Student Loan Program (FISLP) loans and, within the PLUS Program, on Federal PLUS Program loans. The FISLP and the Federal PLUS Program are authorized to operate in States not served by a guarantee agency program. In addition, the FISLP is authorized, under limited circumstances, to operate in States in which a guarantee agency program does not serve all eligible students.

(20 U.S.C. 1071 to 1087–2)

§ 682.101 Participation in the Guaranteed Student Loan and PLUS Programs.

(a) Banks, savings and loan associations, credit unions, pension funds, insurance companies, schools, and State agencies may be lenders.

(b) Educational institutions, including most colleges, universities, graduate and professional schools, and many vocational, technical, and correspondence schools, are eligible to participate as schools for which a student or parent may obtain a loan to pay for the student's cost of education at that institution.

(c) Students who meet certain requirements, including enrollment at a participating school, may borrow under the GSLP and PLUS Program. Parents of eligible dependent undergraduate students may borrow under the PLUS Program.

(20 U.S.C. 1071 to 1087–2)

§ 682.102 Obtaining and repaying a loan.

(a) *GSLP application.* To obtain a GSLP loan, a student completes an application and submits it to the school for certification. After the school certifies the application, the student submits the application to a participating lender. If the lender agrees to make the loan, the lender sends the application to a guarantee agency or to the Secretary for approval.

(b) *Plus Program application.* To obtain a PLUS Program loan a student completes an application and submits it to the school for certification. If the loan is to be made to the student's parent(s), both the student and the parent(s) must complete the application before submitting it to the school. After the school certifies the application, the student or parent(s) submits the application to a participating lender. If the lender agrees to make the loan, the lender sends the application to a guarantee agency or to the Secretary for approval.

(c) *Repaying a loan.*—(1) *General.* The borrower is obligated to repay the full amount of the loan plus any interest not payable by the Secretary. The borrower's obligation to repay is cancelled if the borrower dies, becomes

totally and permanently disabled, or has the loan discharged in bankruptcy.

(2) *GSLP repayment.* Generally, a borrower is not required to make any payments during the time the borrower is in school. In most cases the Secretary pays the interest on the borrower's behalf during the time the borrower is in school. When the borrower ceases to be enrolled on at least a half-time basis, a grace period begins during which no payments are required. At the end of the grace period, the repayment period begins. During the repayment period the borrower pays both the principal and the interest accruing on the loan.

(3) *PLUS repayment.* The Secretary does not pay the interest on a PLUS Program loan on behalf of the borrower. The first payment is due on a PLUS Program loan within 60 days after the loan is disbursed.

(4) *Default.* If a borrower defaults on a loan, the guarantee agency or the Secretary reimburses the lender for the amount of its loss. The guarantee agency or the Secretary then collects this amount from the borrower.

(20 U.S.C. 1071 to 1087–2)

§ 682.103 Applicability of subparts.

(a) Subpart B contains general provisions that are applicable to all GSLP and PLUS Program participants.

(b) Guarantee agency programs are subject to Subparts C, D, F, G and H.

(c) The FISLP and the Federal PLUS Program are subject to Subparts C, E, F, G, and H.

(d) Schools are specifically addressed in Subpart F.

(20 U.S.C. 1071, 1087–2)

Subpart B—General Provisions

§ 682.200 Definitions.

(a) The following definitions are set forth in the Student Assistance General Provisions, 34 CFR Part 668:

Academic year
Act
Campus-based Programs
Clock hour
College Work-Study Program
Dependent student
Guaranteed Student Loan Program
Independent student
Institution of higher education
National Direct Student Loan Program
Pell Grant Program
PLUS Program
Secretary
State
State Student Incentive Grant Program
Supplemental Educational Opportunity Grant Program
Vocational school

(b) Other definitions used in this part are:

Actual interest rate: The annual interest rate a lender charges on a loan, which may be equal to or less than the applicable interest rate on that loan.

Applicable interest rate: The maximum annual interest rate that a lender may charge under the Act on a loan, except that the applicable interest rate is seven percent for any loan made for a period of instruction that began before January 1, 1981.

Borrower: A student or parent to whom a GSLP or PLUS Program loan is made.

Co-maker: One of two individuals who are joint borrowers on a PLUS Program loan and who are equally liable for repayment of the loan.

Default: The failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the Secretary or guarantee agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for—

(1) 120 days for a loan repayable in monthly installments; or

(2) 180 days for a loan repayable in less frequent installments.

Disbursement: The making of a loan by a lender to a borrower by means of issuing a check or draft payable to the order of the borrower and requiring the borrower's personal endorsement.

Endorser: An individual who is secondarily liable for a loan obligation.

Enrolled: The status of a student who has—

(1) Completed the registration requirements at the school he or she is attending, except for the payment of tuition and fees, and has attended classes; or

(2) Been admitted into a correspondence study program and submitted one lesson, completed by the student after acceptance for enrollment and without the assistance of a representative of the school.

Escrow agent: An entity that receives, on behalf of student borrowers, the proceeds of GSLP loans disbursed by eligible lenders for the purpose of redisbursing such proceeds to the borrowers.

Estimated cost of attendance: (1) Except as provided in paragraph (2) of this definition, the tuition and fees applicable to a student, plus the school's estimate of other expenses reasonably related to attendance at that school, for the period for which the loan is sought. These expenses may include, but are not limited to: reasonable transportation and commuting costs; costs for room, board, books, and supplies; the insurance premium for the loan; the interest on previous GSLP and PLUS Program loans received by the student; and, if applicable, the origination fee for the loan. These expenses may not include the purchase of an automobile.

(2) For a student enrolled in a correspondence study program, only the contract price of the program, the insurance premium for the loan, the interest on previous GSLP and PLUS Program loans received by the student, and, if applicable, the origination fee for the loan. However, other costs described in paragraph (1) of this definition incurred by the student in fulfilling a required period of residential training in connection with the correspondence study program may also be included in the estimated cost of attendance.

Estimated financial assistance: The estimated amount of assistance that a student has been or will be awarded during the period for which the loan is sought from Federal, State, institutional or other scholarship, grant, work, or loan programs, including but not limited to—

(1) Any Social Security benefits paid to, or on account of, the student which would not be paid if he or she were not a student;

(2) Veterans educational benefits paid under chapters 32, 34, and 35 of title 38 of the United States Code;

(3) The estimated amount of other Federal student financial aid, including but not limited to Pell Grants and campus-based aid, which the student would be expected to receive if he applied, whether or not the student has applied for such aid; and

(4) GSLP and PLUS loan proceeds withheld by the lender and applied towards an origination fee or insurance premium, if these costs are included in computing the borrower's estimated cost of attendance.

Foreign school: A school not located in a State, as "State" is defined in the Act.

Full-time student: (1) A student enrolled in an institution of higher education (other than a student enrolled in a program of study by correspondence) who is carrying a full-time academic workload as determined by the school under standards applicable to all students enrolled in that student's particular program. The student's workload may include any combination of courses, work, research or special studies, whether or not for credit that the school considers sufficient to classify the student as a full-time student; or

(2) A student enrolled in a vocational school (other than a student enrolled in a program of study by correspondence)

who is carrying a workload of not less than 24 clock hours per week or 12 semester or quarter hours of instruction, or its equivalent.

Grace period: The period that begins on the day on which a GSLP borrower ceases to be enrolled as at least a half-time student (or a full-time student, if so required by the applicable guarantee agency) at a participating school and ends on the day that the repayment period begins. See also "Post-deferment grace period."

Graduate or professional student: A student who—

(1) Is enrolled in a program or course above the baccalaureate level at an institution of higher education or is enrolled in a program leading to a first professional degree;

(2) Has completed the equivalent of at least three years of full-time study at an institution of higher education, either prior to entrance into the program or as part of the program itself; and

(3) Is not concurrently receiving Title IV aid as an undergraduate student.

Guarantee agency: A State or private nonprofit organization that administers a loan guarantee program under Title IV, Part B of the Act.

Half-time student: A student who is enrolled in a participating school, is carrying an academic workload that amounts to at least one-half the workload of a full-time student, as determined by the school, and is not a full-time student. A student enrolled solely in an eligible program of study by correspondence is considered a half-time student.

Holder: An eligible lender in possession of a GSLP or PLUS Program loan.

Legal guardian: An individual appointed by a court to be a "guardian" of a person and specifically required by the court to use his or her financial resources for the support of that person.

Lender: (1) The term "eligible lender" is defined in section 435(g) of the Act.

(2) With respect to a National or State chartered bank, a mutual savings bank, a savings and loan association, or a credit union—

(i) The term "subject to examination and supervision" shall be understood to mean "subject to examination and supervision in its capacity as a lender;" and

(ii) The term "consumer credit function" includes home mortgages.

National of the United States: (1) A citizen of the United States; or

(2) As defined in the Immigration and Nationality Act, 8 U.S.C. 1101(a)(22), a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

Origination: A special relationship between a school and a lender, in which the lender delegates to the school substantial functions or responsibilities normally performed by lenders before making loans. In this situation, the school is considered to have "originated" a loan made by the lender. The Secretary determines that "origination" exists if—

(1) A school determines who will receive a loan and the amount of the loan; or

(2) The lender has the school verify the identity of the borrower or complete forms normally completed by the lender.

Origination fee: A fee which a lender is allowed to charge a GSLP borrower under section 438 of the Act.

Parent: A student's mother, father, or legal guardian. A parent by adoption is considered to be a student's mother or father.

Participating school: A school that has entered into an agreement with the Secretary under § 682.600.

Post-deferment grace period: For a loan made prior to October 1, 1981, a period of six consecutive months beginning on the date when an authorized deferment period ends.

School: (1) An educational institution that is—

(i) An institution of higher education or a vocational school, as those terms are defined in 34 CFR Part 668; or

(ii) With respect to students who are nationals of the United States, a school outside the United States that is comparable to an institution of higher education or to a vocational school and that has been approved by the Secretary for purposes of the GSLP and the PLUS Program.

(2) The term includes only those individual units or programs within a school that have been determined by the Secretary to meet all the requirements for school eligibility.

(3) A school that employs or uses commissioned salespersons to promote the availability of the GSLP or the PLUS Program is not eligible to participate in those programs. For this purpose—

(i) A "commissioned salesperson" is one who receives compensation in any form or amount that is related to, or calculated on the basis of, student applications for enrollment, student enrollments, or student acceptances for enrollment; and

(ii) "Promote the availability" means provide prospective or enrolled students with application forms, names of eligible lenders, or other information designed to encourage persons to finance their education with a GSLP or PLUS Program loan. This term does not include providing general financial aid information to prospective or enrolled students.

School lender: A school, other than a correspondence school, that has been approved as a lender and has entered into a contract of guarantee under this part with the Secretary or a similar agreement with a guarantee agency.

State lender: In any State, a single State agency or private nonprofit agency designated by the State that has been approved as a lender and has entered into a contract of guarantee under this part with the Secretary or a similar agreement with a guarantee agency.

Totally and permanently disabled: The inability to work and earn money because of an impairment that is expected to continue indefinitely or result in death.

Undergraduate student: A student who—

(1) Is enrolled in an undergraduate course or courses at an institution of higher education; or

(2) Is in an undergraduate course of study that usually does not exceed four academic years, or is enrolled in a four to five academic year program designed to lead to a first degree. A student enrolled in any other length program is considered an undergraduate student for only the first four academic years.

(8 U.S.C. 1101; 20 U.S.C. 1071 to 1087–2, 1088–1098, 1141)

§ 682.201 Eligible borrowers.

(a) *Student borrower.* A student is eligible to receive a GSLP loan, and an independent undergraduate student or a graduate or professional student is eligible to receive a PLUS Program loan, if the student—

(1) Is enrolled or accepted for enrollment on at least a half-time basis at a participating school, and meets the requirements of paragraph (c) of this section;

(2) Authorizes the school in writing to pay directly to the lender that portion of any refund of school charges that is allocable to the loan, in accordance with 34 CFR Part 668;

(3) Meets the qualifications pertaining to citizenship and residency status, set forth in paragraph (d) of this section;

(4) Meets the qualifications concerning defaults and overpayments, set forth in paragraphs (e) and (f) of this section;

(5) Complies with the requirements pertaining to registration with the Selective Service, set forth in 34 CFR Part 668; and

(6) Complies with the requirements for submission of a Statement of Educational Purpose, set forth in § 682.203.

(b) *Parent borrower.* A parent is eligible to receive a PLUS Program loan if the parent—

(1) Is borrowing to pay for the educational costs of a dependent undergraduate student who meets all of the qualifications in paragraphs (a)(1) through (5) of this section.

(2) Meets the qualifications pertaining to citizenship and residency status, set forth in paragraph (d) of this section;

(3) Meets the qualifications concerning defaults and overpayments, set forth in paragraphs (e) and (f) of this section; and

(4) Complies with the requirements for submission of a Statement of Educational Purpose, set forth in § 682.203.

(c) *Enrollment status.* To be eligible as a student or a borrower under the GSLP or the PLUS Program, a student must—

(1) If currently enrolled, be maintaining satisfactory progress, as determined by the school;

(2) If enrolled or accepted for enrollment in a foreign school, be a national of the United States; and

(3) If enrolled in a flight school program at a vocational school or an institution of higher education, meet the additional requirements in paragraph (g) of this section.

(d) *Citizenship and residency status.* Each borrower, and each student for whom a parent is borrowing, must be—

(1) A citizen of the United States;

(2) A national of the United States;

(3) A permanent resident of the United States and must provide evidence from the Immigration and Naturalization Service of such status;

(4) In the United States for other than a temporary purpose and must provide evidence from the Immigration and Naturalization Service of intent to become a permanent resident; or

(5) A permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(e) *Effect of default on eligibility.* (1) Except as provided in paragraph (e)(2) of this section, a person is ineligible to be a borrower under the GSLP or PLUS Program if that person, or the student for whom a parent is borrowing, is in default on any loan made under any Title IV student financial assistance program identified in 34 CFR Part 668.

(2) If a borrower, or student for whom a parent is borrowing, is in default, as set forth in paragraph (e)(1) of this section, the borrower may receive a GSLP or PLUS Program loan only if the person who is in default has made satisfactory arrangements with the holder of the loan to repay the defaulted loan.

(3) The school may rely on the borrower's or student's written statement that he or she is not in default, unless the school has information to the contrary.

(4) The Secretary does not consider a loan that is discharged in bankruptcy to be in default for the purpose of this section.

(f) *Effect of overpayment of a grant on eligibility.* (1) Except as provided in paragraph (f)(2) of this section, a person is ineligible to be a borrower under the GSLP or PLUS Program if that person, or the student for whom a parent is borrowing, is liable for an overpayment on any grant made under any Title IV student assistance program identified in 34 CFR Part 668.

(2) If a borrower, or student for whom a parent is borrowing, is liable for an overpayment on a grant, as set forth in paragraph (f)(1) of this section, the borrower may receive a GSLP or PLUS Program loan only if the person who is liable for the overpayment meets the following conditions:

(i) *Overpayment of a Pell Grant.* If the borrower, or student for whom a parent is borrowing, has been overpaid on a Pell Grant, the borrower may still be eligible under the GSLP or PLUS Program if—

(A) The borrower, or student for whom a parent is borrowing, is otherwise eligible; and

(B) The overpayment can be eliminated in the award year (as defined in 34 CFR Part 690) in which it occurred by adjusting the subsequent Pell Grant payments for that award year.

(ii) *Overpayment of a Pell Grant due to a school error.* If the borrower, or student for whom a parent is borrowing, has been overpaid as a result of a school error, and the overpayment cannot be eliminated by adjusting subsequent Pell Grant payments in the award year, the borrower may still be eligible under the GSLP or PLUS Program if—

(A) The borrower, or student for whom a parent is borrowing, is otherwise eligible; and

(B) The person who received the overpayment acknowledges in writing the amount of the Pell Grant overpayment and agrees to repay it within six months from the date of the acknowledgment.

(iii) *Overpayment on a Supplemental Educational Opportunity Grant.* If the borrower, or student for whom a parent is borrowing, is overpaid on a Supplemental Educational Opportunity Grant, the borrower may still be eligible under the GSLP or PLUS Program if—

(A) The borrower, or student for whom a parent is borrowing, is otherwise eligible; and

(B) An adjustment in subsequent financial aid payments (other than Pell Grants) eliminates the overpayment in the same award year (as defined in 34 CFR Part 676) in which it occurred.

(g) *Additional eligibility requirements for a student attending flight school.* To be eligible as a student or a borrower under the GSLP or the PLUS Program for enrollment in a flight school program at a vocational school or an institution of higher education, a student must—

(1) Plan to pursue or be pursuing a full-time program leading to commercial flight ratings;

(2) Have completed ground school training or be taking it concurrently with flight training;

(3) Hold a private pilot's certificate or have sufficient flight hours to qualify for such a certificate; and

(4) Hold at least a Class II medical certificate.

(20 U.S.C. 1077, 1078, 1082, 1085, 1091)

§ 682.202 Permissible charges by lenders to borrowers.

The charges that lenders may impose on borrowers, either directly or indirectly, are limited to the following:

(a) *Interest.* (1) Applicable interest rates under the GSLP:

(i) The applicable interest rate on a GSLP loan for a borrower who, on the date the promissory note is signed, does not have an outstanding balance on a previous GSLP loan is—

(A) Seven percent for a loan covering a period of instruction beginning before January 1, 1981;

(B) Nine percent for a loan covering a period of instruction beginning on or after January 1, 1981, but before September 13, 1983; or

(C) Eight percent for a loan covering a period of instruction beginning on or after September 13, 1983.

(ii) The applicable interest rate on a GSLP loan for a borrower who, on the date the promissory note evidencing the loan is signed, has an outstanding balance on a previous GSLP loan is the applicable interest rate on the previous loan.

(2) Applicable interest rates under the PLUS Programs:

(i) The applicable interest rate on a PLUS Program loan is—

(A) Nine percent for a loan made on or after January 1, 1981, but before October 1, 1983;

(B) Fourteen percent for a loan made on or after October 1, 1981, but before November 1, 1982; or

(C) Twelve percent for a loan made on or after November 1, 1982.

(3) Under both the GSLP and the PLUS Program a lender may charge a

borrower an actual rate of interest that is less than the applicable interest rate specified in paragraphs (a)(1) or (a)(2) of this section.

(b) *Capitalization.* (1) Under a guarantee agency program, a lender may add accrued interest and unpaid insurance premiums on a loan to the borrower's unpaid principal balance if so authorized by the guarantee agency. This increase in the principal balance of a loan is called "capitalization." A guarantee agency's policy, with respect to capitalization, may not permit capitalization that is not permitted under paragraphs (b)(2) and (b)(3) of this section.

(2) Under the FISLP and the Federal PLUS Program, a lender may capitalize interest that has accrued—

(i) During the in-school period or grace period, if capitalization is expressly authorized by the promissory note;

(ii) During a period of authorized deferment;

(iii) During a period of of forebearance, as permitted under § 682.512; or

(iv) During the period from the date the first installment payment was due until it was made.

(3) A lender may capitalize accured interest under paragraphs (b)(2) (i) through (iii) of this section no more frequently than once a year, except that capitalization is again permitted when repayment is required to begin or resume. A lender may capitalize accured interest under paragraph (b)(2)(iv) of this section only on the date repayment of principal actually begins.

(c) *Origination fee for a GSLP loan.* Under the GSLP a lender—

(1) May charge a borrower an origination fee of five percent of the principal amount of the loan;

(2) May deduct the origination fee from the proceeds of the loan;

(3) May, in the case of a loan disbursed in multiple installments, either deduct the entire origination fee from the first disbursement or deduct a *pro rata* portion of the fee from each disbursement;

(4) Shall refund the portion of the origination fee previously deducted from the loan or multiply-disbursed portion by a credit to the borrower's account if the check for the loan or multiply disbursed portion is returned uncashed to the lender;

(5) Shall refund the entire origination fee previously charged to the borrower, if the loan is repaid in full within 60 days of disbursement; and

(6) Shall refund a *pro rata* portion of the origination fee by a credit to the borrower's account if, on a multiply-disbursed loan, the lender deducted the entire origination fee from the first disbursement, and subsequent disbursements are not made.

(d) *Insurance premium.* The insurance premium is a charge made by the guarantee agency or the Secretary to the lender incident to the guarantee the lender receives against default by the borrower. If the insurance premium is provided for in a borrower's promissory note, a lender may charge the borrower the amount of the insurance premium paid by the lender to the guarantor.

(e) *Late charges.* (1) If authorized by the borrower's promissory note, the lender may require the borrower to pay a late charge under the circumstances described in paragraph (e)(2) of this section. The charge may not exceed six cents for each dollar of each late installment.

(2) The lender may require the borrower to pay a late charge if the borrower—

(i) Fails to pay all or a portion of a required installment payment within 10 days after it is due; or

(ii) Fails to provide written evidence that verifies the borrower's eligibility for an authorized deferment of the payment.

(f) *Collection charges.* (1) If provided for in the borrower's promissory note, the lender may require that the borrower pay costs incurred by the lender or its agent in collecting installments not paid when due, including, but not limited to—

(i) Attorney's fees;

(ii) Court costs;

(iii) Telegrams; and

(iv) Long distance telephone calls.

(2) The costs referred to in paragraph (f)(1) of this section may not include normal collection costs associated with preparing letters or notices or with making personal contacts with the borrower (*e.g.*, local telephone calls).

(20 U.S.C. 1077, 1078, 1079, 1082, 1087-1)

§ 682.203 Statement of educational purpose.

No loan may be made under this Part until the borrower submits to the lender a written Statement of Educational Purpose, on a form approved by the Secretary, stating that the loan proceeds will be used solely for costs of attendance at the school that the borrower, or the student on whose behalf a parent is borrowing, is or will be attending.

(20 U.S.C. 1082, 1091)

§ 682.204 Treatment of refunds by lenders.

(a) A lender shall treat a payment of a borrower's refund received from a school as a credit against the amount owed by the borrower on the GSLP or PLUS loan.

(b) (1) If a lender receives from a school a refund payment on a loan that is no longer held by that lender, the lender shall promptly transmit the amount of the refund payment to the holder to whom it assigned the loan, with an explanation of the source of the payment.

(2) Upon receipt of the refund transmitted under paragraph (b)(1) of this section, the holder of the loan shall promptly provide written notice to the borrower that a payment has been received from the previous holder.

(20 U.S.C. 1082)

§ 682.205 Prohibited transactions.

(a) No points, permiums, payments, or additional interest of any kind may be paid or otherwise extended to any eligible lender or other party in order to—

(1) Secure funds for making loans, or

(2) Induce a lender to make loans to either the students or the parents of students of a particular school or a particular category of students or their parents.

(b) The following are examples of transactions which, if entered into for the purposes described in paragraph (a) of this section, are prohibited:

(1) Cash payments by or on behalf of a school made to a lender or other party.

(2) The maintaining of a compensating balance by or on behalf of a school with a lender.

(3) Payments by or on behalf of a school to a lender of servicing costs on loans that the school does not own.

(4) Payments by or on behalf of a school to a lender of unreasonably high serving costs on loans that the school does own.

(5) Purchase by or on behalf of a school of stock of the lender.

(6) Payments ostensibly made for other purposes.

(c) Except when purchased by the Student Loan Marketing Association, an agency of any State functioning as a secondary market, or in other circumstances approved by the Secretary, notes, or any interest in notes, shall not be sold or otherwise transferred at discount if the underlying loans were made—

(1) By a school; or

(2) To students or parents of students attending a school by a lender having common ownership with that school.

(d) Except to secure a loan from the Student Loan Marketing Association or an agency of a State functioning as a secondary market or in other circumstances approved by the Secretary, a school or a lender, with respect to a loan made to a student, or a

parent of a student, attending a school having common ownership with the lender, may not pledge a loan made under the GSLP or PLUS Program as security for any loan bearing aggregate interest and other charges in excess of the sum of the interest rate applicable to the loan plus the rate of the then most recently prescribed special allowance prescribed under § 682.302.

(e) The prohibitions described in paragraphs (a), (b), (c), and (d) of this section apply to any school or lender which would be a party to the proscribed transactions.

(f) Warranty: This section does not preclude a buyer of loans made by a school from obtaining from the seller of those loans, a warranty that—

(1) Covers future reductions by the Secretary or a guarantee agency in computing the amount of loss payable on default claims filed on the loans where the reductions are attributable to an act or failure to act on the part of the seller or previous holder; and

(2) Does not cover matters for which a purchaser is charged with responsibility under this part, such as due diligence in collecting loans.

(g) Section 490(c) of the Act provides that any person who knowingly and willfully makes an unlawful payment to an eligible lender as an inducement to make, or to acquire by assignment, a loan guaranteed under the GSLP or PLUS Program shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

(20 U.S.C. 1082, 1097)

§ 682.206 Prohibition against the use of the Rule of 78's.

For purposes of the calculations required by this part, a lender shall not use the Rule of 78's to calculate the outstanding principal balance of a loan.

(20 U.S.C. 1082)

Subpart C—Federal Payments of Interest and Special Allowance

§ 682.300 Payment of interest benefits on a GSLP loan.

(a) *General.* The Secretary pays a lender a portion of the interest on a GSLP loan on behalf of a borrower who qualifies under § 682.301. This payment is known as interest benefits.

(b) *Covered interest.* (1) The Secretary pays interest benefits on an eligible GSLP loan for interest accruing—

(i) During all periods prior to the beginning of the repayment period;

(ii) During any period when the borrower has an authorized deferment, or, if applicable, a post-deferment grace period; and

(iii) During the repayment period for loans described in paragraph (c)(2) of this section.

(2) The Secretary's obligation to pay interest benefits on an otherwise eligible loan terminates on—

(i) The date of default by the borrower;

(ii) The date the borrower's loan is discharged by a bankruptcy court;

(iii) The date the lender determines that the borrower has died or has become totally and permanently disabled; or

(iv) The 90th day after the date of disbursement, if the loan check has not been cashed.

(3) Section 682.412(a) sets forth the circumstances under which a lender may be required to repay interest benefits received on a loan guaranteed by a guarantee agency.

(c) *Rate.* (1) Except as provided in paragraph (c)(2) of this section, the Secretary pays the lender the actual interest rate on an eligible GSLP loan, provided that the actual interest rate does not exceed the applicable interest rate.

(2) For a loan disbursed prior to December 15, 1968, or subject to a binding commitment made prior to that date, the Secretary pays an amount during the repayment period equivalent to three percent per year of the unpaid principal amount of the loan.

(d) *Interest not covered.* Interest benefits do *not* cover—

(1) Interest on interest added to principal, except for interest capitalized in accordance with § 682.202(b);

(2) Interest for which the borrower is not otherwise liable; or

(3) Interest paid on behalf of the borrower by a guarantee agency.

(20 U.S.C. 1078, 1082)

§ 682.301 [Reserved]

§ 682.302 Payments of special allowance on a GSLP or PLUS Program loan.

(a) *General.* The Secretary pays a special allowance to a lender on an eligible GSLP or PLUS Program loan. The special allowance is a percentage of the average unpaid principal balance, including interest capitalized in accordance with § 682.202(b), computed in accordance with paragraph (c) of this section.

(b) *Eligible loans.* All GSLP and PLUS loans otherwise meeting program requirements are eligible for special allowance payments, except for GSLP loans disbursed on or after October 1, 1981 that do not qualify for interest benefits under § 682.301.

(c) *Rate.* (1) Except as provided in paragraph (c)(2) of this section, the special allowance rate for an eligible loan during a three-month period is calculated by—

(i) Determining the average of the bond equivalent rates of the 91-day Treasury bills auctioned during the three-month period;

(ii) Subtracting the applicable interest rate for the loan;

(iii) Adding three and one-half percent;

(iv) For a loan made prior to October 1, 1981, rounding the result upward to the nearest one-eighth of one percent; and

(v) Dividing the resulting percentage by four.

(2)(i) The special allowance rate payable for a three-month period on an eligible loan made or guaranteed on or after October 1, 1980 that was made or purchased with funds obtained from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, is one-half the rate determined under paragraph (c)(1) of this section, but not less than—

(A) Two and one-half percent per year on eligible loans for which the applicable interest rate is seven percent;

(B) One and one-half percent per year on eligible loans for which the applicable interest rate is eight percent; or

(C) One and one-half percent per year on eligible loans for which the applicable interest rate is nine percent.

(ii) The rate established in paragraph (c)(2)(i) of this section also applies to a loan made or purchased with funds obtained from—

(A) Collections or default reimbursements on, or interest or other income pertaining to, a loan described in paragraph (c)(2)(i) section; or

(B) The investment of the funds described in paragraph (c)(2)(ii)(A) of this section.

(d) *Termination of special allowance payments on a loan.* (1) The Secretary's obligation to pay special allowance on a loan terminates on the earliest of the date—

(i) The borrower repays the loan;

(ii) The lender receives payment on a claim for loss on the loan;

(iii) The loan ceases to be guaranteed under this part, regardless of whether the lender has filed a claim for loss on the loan with the guarantor;

(iv) 90 days after the borrower's default on the loan, unless the lender files a claim for loss on the loan with the guarantor prior to such 90th day; or

(v) 90 days after the date of disbursement, if the loan check has not been cashed.

(2) Section 682.412(a) of this part sets forth the circumstances under which a lender may be required to repay special allowance received on a loan guaranteed by a guarantee agency.

(20 U.S.C. 1082, 1087-1)

§ 682.303 Methods for computing interest benefits and special allowance.

(a) *General.* The Secretary pays a lender interest and special allowance on eligible loans on a quarterly basis. These calendar quarters end on March 31, June 30, September 30, and December 31 of each year. A lender may use either the average daily balance method or the actual accrual method to determine the amount of interest benefits payable on its loans. A lender shall use the average daily balance method to determine the balance on which the Secretary computes the amount of special allowance payable on its loans.

(b) *Average daily balance method for interest benefits.* (1) Under this method, the lender adds the unpaid principal balance outstanding on all loans qualifying for interest benefits at each *actual* interest rate for each day of the quarter, and divides the sum by the number of days in the quarter. The resulting figure is the average daily balance for qualified loans outstanding at each actual interest rate.

(2) The lender computes the interest benefits due on all qualified loans at each actual interest rate by multiplying the average daily balance thereof by the actual interest rate, multiplying this result by the number of days in the quarter, and then dividing this result by 365 (366 in a leap year).

(c) *Actual accrual method for interest benefits.* (1) Under this method, the lender computes the total unpaid principal balance outstanding on all qualified loans at each actual interest rate on each day of the quarter, multiplies this result by the actual interest rate, and divides this result by 365 (366 in a leap year).

(2) The interest benefits due for a quarter is the sum of the daily interest benefits due, computed under paragraph (c)(1) of this section, for each day of the quarter.

(d) *Average daily balance method for special allowance.* (1) To compute the average daily balance outstanding for special allowance purposes, the lender adds the unpaid principal balance outstanding on all qualified loans at each *applicable* interest rate for each day of the quarter and divides this sum by the number of days in the quarter. The resulting figure is the average daily balance for the quarter.

(2) The Secretary computes the special allowance payable to a lender based upon the average daily balance computed by the lender under paragraph (d)(1) of this section.

(20 U.S.C. 1078, 1082, 1087-1)

§ 682.304 Procedure for payment of interest benefits and special allowance.

(a) General: (1) To receive payments of interest benefits and special allowance, a lender must submit quarterly reports to the Secretary on a form provided or prescribed by the Secretary.

(2) The Secretary reduces the amount of interest benefits and special allowance payable to the lender by the amount of origination fees the lender was authorized to collect during the quarter under § 682.202(c), whether or not the lender actually collected that amount. The Secretary increases the amount of interest benefits and special allowance payable to the lender by the amount of such fees refunded to borrowers during the quarter under § 682.202(c).

(3) The lender shall report, on the quarterly report required by paragraph (a)(1) of this section, the amount of origination fees it was authorized to collect, and the amount of such fees refunded to borrowers, during the quarter covered by the report.

(4) If a lender sells or otherwise transfers a loan within the calendar quarter in which the loan is disbursed, either the lender making the loan or the new holder may report the amount of the origination fee to the Secretary. In either case, the lender making the loan and any subsequent holder are jointly and severally liable for payment of the origination fee to the Secretary.

(b) Penalty interest: (1) If the Secretary does not authorize the Treasury Department to pay interest benefits or special allowance within 30 days after the Secretary receives an accurate, timely, and complete request for payment from a lender, the Secretary pays the lender penalty interest.

(2) Penalty interest is an amount that accrues daily on interest benefits and special allowance due to the lender. The penalty interest is computed at the daily rate of the sum of—

(i) The interest rate applicable to the eligible loans on which payment is requested; and

(ii) The special allowance rate on those loans computed under § 682.302(c) for the quarter for which payment is requested.

(3) The Secretary pays penalty interest from the later of—

(i) The 31st day after the final day of the quarter covered by the request for payment; or

(ii) the 31st day after the Secretary's receipt of an accurate, timely, and complete request for payment from the lender.

(4) Penalty interest continues to accrue through the day the Secretary authorizes payment on the request by the Treasury Department.

(c) A request for interest benefits and special allowance is considered timely only if it is received by the Secretary within 90 days following the end of the quarter to which the request pertains.

(20 U.S.C. 1078, 1082, 1087-1)

§ 682.305 Payment of interest benefits and special allowance to a lender making multiple installment loans.

(a) The Secretary pays a lender that meets the criteria in paragraph (b) of this section interest benefits and special allowance on the entire approved amount of a GSLP loan, even though only a portion of the loan has been paid to a borrower. For the purposes of this payment, interest benefits and special allowance begin to accrue on the date of disbursement of the first installment of the loan.

(b) A lender is eligible to receive interest benefits and special allowance on a multiple installment loan even though only a portion of the loan has been paid to the borrower, if the lender—

(1) Is not a school or State agency;

(2) Has made a binding commitment to make the entire amount of the loan; and

(3) Is approved to receive these payments by the Secretary in accordance with paragraph (c) of this section.

(c) To be approved by the Secretary, a lender must—

(1) Submit an application on a form provided or approved by the Secretary;

(2) Agree to disburse the loan in installments as prescribed in paragraph (d) of this section;

(3) Have been making GSLP loans for at least six months;

(4) Not have had its lending status limited, suspended, or terminated by the Secretary or a guarantee agency during the three-year period immediately prior to the date of its application; and

(5) Have made, or expect to make within a 12-month period, GSLP loans qualifying for interest benefits amounting to at least one-fourth of one percent of its total assets or $100,000, whichever is less. The 12-month period must include the date on which the lender makes application for approval.

(d) A lender shall disburse multiple installment loans in accordance with the following requirements:

(1) Disbursement shall be in two or more installments.

(2) No installment may exceed one-half of the loan.

(3) The interval between the first and second installment must be at least one-third of the enrollment period for which the loan is made. However, if the lender determines that the student needs the second installment sooner for the cost of attendance, the lender may disburse the second installment sooner. The lender shall document in its records the reason for making an earlier disbursement. For the purpose of this subparagraph, the period of enrollment may not exceed 12 months.

(4) Each disbursement check shall be accompanied by a notice to the school indicating that it is part of a multiple disbursement. The notice accompanying the first disbursement must specify the expected timing and amounts of subsequent disbursements.

(e) The Secretary's obligation to pay interest benefits and special allowance on the undisbursed portion of a multiple installment loan terminates on the date the lender determines that the borrower—

(1) Is no longer enrolled at least half-time at a participating school; or

(2) No longer desires undisbursed loan funds.

(f) If the Secretary determines that a lender making multiple installment loans under this section is not properly administering the disbursement of the loans, the Secretary withdraws approval for the lender to receive the special payments of interest benefits and special allowance under this section.

(20 U.S.C. 1078, 1082)

Subpart D—Guarantee Agency Programs

§ 682.400 Agreements between a guarantee agency and the Secretary.

(a) The Secretary enters into agreements with a guarantee agency whose loan guarantee program meets the requirements of this subpart. The agreements enable the guarantee agency to participate in the GSLP and PLUS Program and to receive the various payments and benefits incident to such participation.

(b) There are five agreements:

(1) *Basic program agreement.* In order to participate in the GSLP and the PLUS Program a guarantee agency must have a basic agreement. Under this agreement—

(i) Borrowers whose GSLP loans are guaranteed may qualify for interest benefits that are paid to the lender on the borrower's behalf;

(ii) Lenders under the guarantee agency program may receive special allowance payments from the Secretary, and have death, disability, and bankruptcy claims paid by the Secretary through the guarantee agency; and

(iii) The guarantee agency may apply for the primary administrative cost allowance, and for the other agreements described in this section.

(2) *Federal advances for claim payments agreement.* A guarantee agency must have this agreement to receive and use Federal advances to pay default claims.

(3) *Reinsurance agreement.* A guarantee agency must have this agreement to receive reimbursement from the Secretary for at least 80 percent of its losses on default claims.

(4) *Supplemental reinsurance agreement.* A guarantee agency must have this agreement to receive reimbursement from the Secretary for up to 100 percent of its losses on default claims.

(5) *Secondary administrative cost allowance agreement.* A guarantee agency must have this agreement to receive the secondary administrative cost allowance.

(c) The Secretary's execution of an agreement does not indicate acceptance of any current or past standards or procedures used by the agency.

(d) All of the agreements are subject to subsequent changes in the Act or regulations.

(20 U.S.C. 1072, 1078–1, 1078–2, 1082, 1087, 1087–1)

§ 682.401 Basic program agreement.

(a) In order to participate in the GSLP and PLUS Program, a guarantee agency must enter into a basic agreement with the Secretary.

(b) Program requirements: In the basic agreement, the guarantee agency agrees to ensure that its loan guarantee program meets the following requirements at all times:

(1) *Aggregate loan limits.* The aggregate guaranteed unpaid principal amount for all GSLP and PLUS Program loans made to a borrower may not exceed the amounts set forth in § 682.506 (c) and (e).

(2) *Annual amounts.* (i) The annual loan amount authorized for an academic year must be at least $1,000, but may not exceed the amounts set forth in § 682.506 (b) and (d).

(ii) If the program guarantees loans to an eligible half-time student borrower or to a parent borrower on behalf of an eligibile half-time student, the annual loan amount authorized for an academic year must be at least $500.

(iii) A guarantee agency may make the loan amounts authorized under paragraph (b)(2)(i) and (ii) of this section applicable for either—

(A) A period that does not exceed 12 months; or

(B) A period in which the student earns the amount of credit in the student's program of study required by the student's school as the amount necessary for the student to advance in academic standing as normally measured on an academic year basis (for example from freshman to sophomore or, in the case of schools using clock hours, completion of at least 900 clock hours).

(iv) In no case may the amount of the loan exceed the student's estimated cost of attendance for the academic period for which the loan is intended, less estimated financial assistance.

(3) *Duration of borrower eligibility.* (i) A student borrowing under the GSLP or PLUS Program, and a parent borrowing on behalf of a student under the PLUS Program, must be eligible to borrow for any year of the student's study at a participating school; and

(ii) Loans must be available to or on behalf of any student for at least six academic years of study or the equivalent.

(4) *Borrower responsibilities.* (i) The guarantee agency shall require that the borrower promptly notify the lender of any change of name or address.

(ii) The borrower shall give to the lender, as part of the loan application process—

(A) A statement, described in § 682.203, that the loan will be used for the cost of the student's attendance;

(B) Information that provides a basis for determining that the borrower is eligible for the loan;

(C) Information concerning the borrower's outstanding GSLP, PLUS Program and NDSLP (National Direct Student Loan Program) loans and, if the borrower is a parent, information on the outstanding GSLP, PLUS Program and NDSLP loans made to or on behalf of the student;

(D) A statement from the student authorizing the school to release information relevant to the student's eligibility to borrow or to have a parent borrow on the student's behalf (*e.g.*, the student's enrollment status, financial assistance, and employment records.)

(E) Information from the school that provides a basis for determining that the student qualifies as an eligible student and the maximum amount that may be borrowed by or on behalf of the student.

(5) *Loan disbursement.* The guarantee agency shall require, as a condition for a

loan guarantee, that a lender disburse loan funds as required in § 682.508(f) and (g) with the following modifications:

(i) References to the Secretary shall be understood to mean the guarantee agency.

(ii) The notification to the school required by § 682.508(f)(1)(v) may be made by either the lender or the guarantee agency.

(6) *Insurance premiums.* (i) The guarantee agency may change an insurance premium to the lender on each loan. The guarantee agency may use the proceeds of this charge only to guarantee loans and to cover costs incurred by the guarantee agency in the administration of its loan guarantee program. The lender may deduct this charge from the borrower's loan proceeds. The guarantee agency may not use the proceeds of this charge to make incentive payments to lenders or to increase yields to lenders.

(ii) The amount of the insurance premium may not exceed one percent per year of the unpaid principal balance of the loan, excluding interest or other charges the lender may have added to the principal balance.

(iii) Under the GSLP the length of time for which the insurance premium is charged determines whether the lender must refund all or part of that charge to the borrower:

(A) If the insurance premium is charged for a period extending no longer than one year after the borrower's anticipated graduation date, the premium need not be refunded to the borrower even if the borrower graduates or withdraws from school, defaults, dies, becomes totally and permanently disabled, or has the loan discharged in bankruptcy prior to the anticipated graduation date.

(B) If the insurance premium is charged for a period extending beyond one year after the anticipated graduation date, the insurance premium must be refunded to the borrower in accordance with paragraph (b)(6)(iv) of this section.

(iv)(A) If a borrower graduates or withdraws from school before the anticipated graduation date, the amount of any insurance premium on a GSLP loan attributable to the repayment period must be recomputed to take into account the declining principal balance of the loan. Any refund due the borrower as a result of this computation must be treated as a prepayment of the insurance premium for a later period, if a premium will be required for that period, or as a repayment of principal.

(B) If a borrower defaults, the amount of any insurance premium attributable to subsequent periods must be credited frist to accrued interest and then to the principal balance of the loan.

(C) If a borrower prepays the entire unpaid balance fo the loan, the amount of any insurance premium attributable to a period following the date of prepayment by two or more years must be refunded to the borrower.

(v) The insurance premium for a PLUS Program loan need not be refunded under any circumstances.

(7) *Guarantee liability.* The guarantee agency shall guarantee at least 80 percent of the unpaid principal balance of each loan guaranteed.

(8) Guarantee agency administration. In the case fo a State loan guarantee program, the program must be administered by a single State agency, or by one or more private nonprofit institutions or organizations under the supervision of a single State agency. For this purpose, "supervision" includes, but is not limited to, setting policies and procedures, and having full responsibility for the operation of the program.

(9) *Loan assignment.* (i) The guarantee agency shall allow a loan to be assigned only to—

(A) An eligible lender;

(B) The guarantee agency, in the case of a borrower's default, death, total and permanent disability, or filing of a bankruptcy petition; or

(C) The Secretary.

(ii) For the purpose of this paragraph "assigned" means any kind of transfer of an interest in the loan, including a pledge of such an interest as security.

(10) *Standards and procedures.* (i) The guarantee agency shall establish, disseminate to concerned parties, and enforce standards and procedures for—

(A) Ensuring that all lenders in its program meet the definition of "eligible lender" in section 435(g)(1) of the Act;

(B) School and lender participation in its program;

(C) Limitation, suspension, or termination of school and lender participation;

(D) Approval of forbearance;

(E) The exercise of due diligence by lenders in making, servicing, and collecting loans; and

(F) The timely filing by lenders of default, death, disability, and bankruptcy claims.

(ii) The guarantee agency shall ensure that its program at all times meets the requirements for—

(A) Disclosure of loan information to borrowers as set forth in § 682.507;

(B) Due diligence by lenders in servicing loans as set forth in § 682.509;

(C) Repayment of loans as set forth in § 682.510, execept that references to the FISLP and Federal PLUS program shall be understood to mean the guarantee agency program;

(D) Deferments as set forth in § 682.511;

(E) Forbearance in § 682.512; and

(F) Consequences of failure of a borrower or student to establish eligibility as set forth in § 682.515.

(11) The guarantee agency shall establish and follow a system and procedures for monitoring the enrollment status of a student borrower that include, at a minimum—

(i) Transmitting a student status confirmation form to the school for completion at least semi-annually; and

(ii) Reporting to the current holder of the loan, withint 60 days of receipt of the completed form from the school, any change in the student's enrollment status that triggers—

(A) The commencement of the borrower's grace period; or

(B) The commencement or resumption of the borrower's immediate obligation to make scheduled payments.

(12) The guarantee agency shall submit, or require its lenders to submit, upon the Secretary's request, information the Secretary deems necessary for determining the amount of interest benefits and special allowance payable on the agency's guaranteed loans.

(13) The guarantee agency shall require lenders to submit to the agency the information necessary for the agency to complete the reports required by § 682.413(b).

(c) The agency shall submit to the Secretary, prior to their adoption, its application forms, promissory notes, regulations, and statements of procedures and standards (including standards for due diligence and timely claims filing) as well as other materials that substantially affect the operation of the agency's program, whenever requested to do so by the Secretary and whenever changes or new materials are proposed. The Secretary reviews these materials for administrative and fiscal sufficiency and for conformance to statutory and regulatory provisions. The agency shall not use these materials until the Secretary approves them.

(20 U.S.C. 1078, 1078-2, 1082)

§ 682.402 Death, disability, and bankruptcy payments.

(a)(1) *Death and disability.* (i) If a borrower who received a loan covered by a reinsurance agreement prior to December 15, 1968 dies or becomes totally and permanently disabled, the Secretary reimburses the guarantee agency under the provisions of the reinsurance agreement. The agency is

not required to recover the amount of its loss from the borrower or the borrower's estate.

(ii) If a borrower who individually received a loan after December 14, 1968 dies or becomes totally and permanently disabled, the Secretary cancels the borrower's repayment obligation by paying the lender, through the guarantee agency, the amount owed. However, if a PLUS Program loan was obtained by two parents as co-makers, and only one of the co-makers dies or becomes totally and permenantly disabled, the other co-maker remains obligated to repay the loan.

(iii) Further references in this section to death and disability claims relate only to loans made after December 14, 1968.

(2) *Bankruptucy.* If an individual borrower's loan is discharged in bankruptcy, the Secretary pays the lender the amount owed. However, if a PLUS Program loan was obtained by two parents as co-makers, and only one borrower's repayment obligation is discharged in bankruptcy, the other borrower remains obligated to repay the loan.

(3) *Determination of the borrower's death, total and permanent disability, or bankruptcy.* The procedures in § 682.517 for determining whether a borrower has died, become totally and permanently disabled, or filed a bankruptcy petition, apply to guarantee agency programs with the following modifications:

(i) References to the Secretary in § 682.517(a)(2) and (c)((3) shall be understood to mean the guarantee agency, if the loan is held by a lender.

(ii) References to the lender shall be understood to mean the guarantee agency, if the loan is held by a guarantee agency.

(iii) References to the lender shall be understood to mean a lender under a guarantee agency program, if the loan is held by a lender.

(b) The Secretary does not pay a death, disability, or bankruptcy claim if a default claim for the loan previously has been disapproved by the guarantee agency, or the loan would not qualify either for repayment of a default claim or for reinsurance payments.

(c) Claim procedures for a loan held by a lender:

(1)(i) A lender shall provide the guarantee agency with the documentation required in § 682.518 (b)(1), (b)(2), and (d)(2)–(4) when filing a death, disability, or bankruptcy claim under a guarantee agency program. The agency shall return to the lender any submission that is not timely, accurately and complete.

(ii) The claim filing deadlines in § 682.518(e)(2)–(4) apply to guarantee agency programs.

(iii) For purposes of paragraphs (c)(1)(i) and (ii) of this section, the following modifications apply to §§ 682.518(d)(2)–(4) and 682.518(e)(2)–(4):

(A) References to the lender in §§ 682.518(d)(2)–(4), and 682.518(e)(2)–(4), shall be understood to mean a lender under a guarantee agency program.

(B) References to the Secretary in § 682.518(e)(2)–(4) shall be understood to mean the guarantee agency program.

(2) After determining that a death, disability, or bankruptcy claim is valid, the guarantee agency shall pay the lender the amount authorized by paragraph (c)(3) of this section.

(3) The amount of loss to be paid on a valid claim is determined according to § 682.519(a)(2)(ii), (a)(3), and (b), with the following modifications:

(i) References to the lender in § 682.519(b) (2) shall be understood to mean a lender under a guarantee agency program.

(ii) References in § 682.519(b)(2) and (3) to the Secretary shall be understood to mean the guarantee agency:

(d) Treatment of bankruptcy by the guarantee agency.

(1) After payment of a bankruptcy claim to a lender, the guarantee agency shall diligently contest the discharge of the loan by the bankruptcy court. Once the dischargeability of the loan has been decided in a bankruptcy action, the guarantee agency shall—

(i) Treat the loan as if forbearance had been exercised as to repayment of principal and interest from the date of filing of the bankruptcy petition until the date the court held the loan non-dischargeable, if the court so held; or

(ii) Submit the bankruptcy claim to the Secretary for reimbursement, if the loan is discharged.

(2) In the case of a claim submitted under paragraph (d)(1)(ii) of this section, the Secretary pays the guarantee agency the amount of loss that the guarantee agency paid the lender on the bankruptcy claim, plus interest that accrues through the earlier of—

(i) The date the Secretary authorizes payment to the guarantee agency; or

(ii) 60 days after the date of discharge.

(e) Claim procedures for loans held by a guarantee agency: (1) The Secretary pays a death, disability, or bankruptcy claim on a loan held by a guarantee agency after the agency has paid a default claim to the lender thereon only in the following circumstances:

(i)(A) In the case of a PLUS Program loan, the borrower (or each of the co-makers) dies, or becomes totally and permanently disabled, or has the repayment obligation discharged in bankruptcy, within 10 years of the date the loan was made, exclusive of periods of deferment or periods of forbearance granted by the lender that extend the 10-year maximum repayment period; or

(B) In the case of a GSLP loan, the borrower dies, becomes totally and permanently disabled, or has the loan discharged in bankruptcy, within 15 years of the date the loan was made, exclusive of periods of deferment or periods of forbearance granted by the lender that extend the 15-year maximum repayment period;

(ii) The guarantee agency has not written off the loan as uncollectible in accordance with the procedures established by the agency pursuant to § 682.410(b)(2)(iv);

(iii) The guarantee agency has exercised due diligence in the collection of the loan, in accordance with the procedures established by the agency pursuant to § 682.410(b)(2), until the borrower (or each of the co-makers) died, became totally and permanently disabled, or had the loan discharged in bankruptcy.

(2) The Secretary pays the guarantee agency a percentage of the outstanding principal and interest that is equal to the complement of the reinsurance percentage paid on the loan. Interest includes interest which accrues during the lesser of—

(i) The period from the date the guarantee agency determines that the borrower died, became totally and permanently disabled, or had the loan discharged in bankruptcy, until the Secretary authorizes payment; or

(ii) 60 days.

(f) If the guarantee agency receives any payments from or on behalf of the borrower on a loan on which the Secretary previously paid a bankruptcy claim, the guarantee agency shall remit 100 percent of these payments to the Secretary.

(20 U.S.C. 1078–2, 1082, 1087)

§ 682.403 Federal advances for claim payments.

(a) To the extent that funds are appropriated by Congress for this purpose, the Secretary makes an advance to a guarantee agency that has a reinsurance agreement. The advance may be used only to pay guarantee claims. The Secretary makes an advance to—

(1) A State guarantee agency; or

(2) One or more private nonprofit guarantee agencies in a State if, during a fiscal year—

(i) The State does not have a guarantee agency program;

(ii) The Secretary consults the chief executive officer of the State and finds it unlikely that the State will have such a program for that year; and

(iii) Each private nonprofit guarantee agency—

(A) Agrees to establish at least one office in the State with sufficient staff to handle written and telephone inquiries from students, eligible lenders, and other persons in the State;

(B) Agrees to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major lenders within the State;

(C) Agrees that the benefit of its loan guarantees will not be denied to students because of their choice of schools or lack of need; and

(D) Certifies that it is not an eligible educational institution, and that it does not have substantial affiliation with any eligible educational institution.

(b) Application: A guarantee agency must apply in order to receive an initial advance. The application must be submitted as prescribed by the Secretary.

(c) Number of payments: (1)(i) An advance may be made to an established guarantee agency for each of three consecutive calendar years. An established agency is an agency that was actively carrying on a loan guarantee program for which it executed a basic agreement before October 12, 1976.

(ii) An advance may be made to a new guarantee agency for each of five consecutive calendar years. A new agency is an agency that entered into a basic agreement on or after October 12, 1976, or that was not actively carrying on a loan guarantee program on or before October 12, 1976.

(2)(i) A guarantee agency may request that the initial advance be made on a specified date. The Secretary pays subsequent advances on the same day of succeeding years that the initial advance was made.

(ii) An additional advance may be made to a private nonprofit guarantee agency only if the agency continues to qualify under paragraph (a) of this section.

(d) The Secretary makes an advance on terms and conditions specified in an agreement between the Secretary and the guarantee agency.

(e) In the case of a private nonprofit guarantee agency, the "outstanding insurance obligation," referred to in section 422(c)(4) of the Act, is determined separately for each State for which the agency has received an advance under this section.

(20 U.S.C. 1072, 1082)

§ 682.404 Federal reinsurance agreement.

(a)(1) The Secretary may enter into a reinsurance agreement with a guarantee agency that has a basic program agreement. Under a reinsurance agreement, the Secretary reimburses the guarantee agency for 80 percent of its losses on default claim payments to lenders. This agreement is a prerequisite for the supplemental reinsurance agreement, under which the Secretary reimburses the guarantee agency for up to 100 percent of such losses.

(2) For the purpose of this section and § 682.405 of this part, "losses" means the amount of unpaid principal and accrued interest the agency pays on a default claim filed by a lender on a reinsured loan, minus payments made by, or on behalf of, the borrower after the lender's claim is paid and before the Secretary reimburses the agency.

(3) Death and disability claims on loans made after December 14, 1968, are not covered by the reinsurance agreement. Claims on loans to borrowers who have had their loans discharged in bankruptcy also are not covered. The Secretary's payments on death, disability, and bankruptcy claims are addressed in § 682.402 of this part.

(4) A guarantee agency's loss on a loan that was outstanding when a reinsurance agreement was executed is covered by the reinsurance agreement only if the default on the loan occurs after the effective date of the agreement.

(b) In deciding whether to enter into or extend a reinsurance agreement, or, if an agreement has been terminated, whether to enter into a new agreement, the Secretary considers the adequacy of—

(1) Efforts by the guarantee agency and the lenders to which it provides guarantees to collect outstanding loans;

(2) Efforts by the guarantee agency to make GSLP and PLUS Program loans available to all eligible borrowers; and

(3) Other relevant aspects of the guarantee agency's program operations.

(c) The reinsurance agreement contains such terms and conditions as the Secretary finds necessary to promote the purposes of the GSLP and the PLUS Program and to protect the United States from unreasonable risks of loss.

(d) A reinsurance agreement provides that payments made by a borrower must first be applied to the payment of all accrued interest, then to repayment of principal and then to payment of other charges.

(e)(1) If a borrower makes payments on a loan after the Secretary has paid a reinsurance claim on that loan, the agency shall pay to the Secretary the Secretary's equitable share of those payments.

(2) For the purpose of this section and § 682.405, "the Secretary's equitable share" means that portion of borrower payments, attributable to principal and interest, which remains after the agency has deducted—

(i) An amount equal to the complement of the reinsurance percentage which was in effect when the reinsurance payment was made by the Secretary; and

(ii) An amount, not exceeding 30 percent of borrower payments, expended by the agency for the administrative costs of collection of loans, the administrative costs of preclaim assistance for default prevention, and the administrative costs of monitoring the enrollment status of students and repayment status of borrowers.

(3)(i) The terms "administrative costs of collection of loans" and "administrative costs of preclaim assistance for default prevention," as used in this paragraph, are defined in section 428(c)(6) of the Act. The term "administrative costs of monitoring the enrollment status of students and repayment status of borrowers," as used in this paragraph, has the same meaning as "administrative costs of monitoring the enrollment and repayment status of students," as defined in section 428(c)(6) of the Act, except that the reference to repayment status, in cases where the borrower is a parent, shall be understood to refer to that of the parent borrower.

(ii) The term "overhead costs" used in those definitions includes space and utilities costs.

(4) Unless the Secretary approves otherwise, the guarantee agency shall submit the Secretary's equitable share of borrower payments within 60 days of its receipt of the payments.

(5) If a guarantee agency, in determining the Secretary's equitable share of borrower payments, includes as an administrative cost a portion of the price of an asset it buys, and the agency subsequently sells that asset, the agency shall repay to the Secretary a percentage of the sale proceeds equal to the percentage of the original purchase price of the asset paid to the agency by the Secretary.

(20 U.S.C. 1078, 1078-2, 1082)

§ 682.405 Supplemental Federal reinsurance.

(a) Amount of supplemental reinsurance payments: (1) The Secretary may enter into a supplemental reinsurance agreement with a guarantee agency that has a reinsurance agreement and that meets the requirements of this section. Under a supplemental reinsurance agreement, the Secretary reimburses the guarantee agency for up to 100 percent of its losses, with the following exceptions:

(i) When the total of reinsurance claims paid by the Secretary to a guarantee agency during any fiscal year reaches five percent of the "amount of loans in repayment" at the end of the preceding fiscal year, the Secretary's reinsurance payment on a default claim subsequently paid by the guarantee agency during that fiscal year equals 90 percent of the amount of the unpaid principal balance plus accrued interest.

(ii) When the total of reinsurance claims paid by the Secretary to a guarantee agency during any fiscal year reaches nine percent of the "amount of loans in repayment" at the end of the preceding fiscal year, the Secretary's reinsurance payment on a default claim subsequently paid by the guarantee agency during that fiscal year is 80 percent of the amount of the unpaid principal balance plus accrued interest.

(2) For purposes of this paragraph, the total of reinsurance claims paid by the Secretary to a guarantee agency during any fiscal year does not include amounts paid on claims by the guarantee agency under policy, established by the agency, that is—

(i) Required by § 682.401(b)(10)(ii)(F); or

(ii) Consistent with § 682.516(a)(1).

(3) Notwithstanding paragraph (a)(1) of this section, for a guarantee agency that entered into a basic program agreement under section 428(b) of the Act after September 30, 1976, or was not actively carrying on a loan guarantee program covered by a basic program agreement on October 1, 1976, the Secretary pays 100 percent of its losses under a supplemental reinsurance agreement during five consecutive fiscal years beginning with the first year of its operation. The Secretary monitors programs of this type and, if an agency does not prudently administer its program, the Secretary may determine that it does not continue to qualify for this exception.

(b) Definitions: (1) "Losses" is defined in § 682.404(a).

(2) For purposes of this section, the "amount of loans in repayment" means the original principal amount of all loans guaranteed by the agency minus—

(i) The original principal amount of loans on which—

(A) The borrower has not yet reached the repayment period;

(B) Payment in full by the borrower has been made; or

(C) The borrower was in deferment status at the time repayment was scheduled to begin, and remains in deferment status; and

(ii) The amount paid by the agency for guarantee claims on loans, exclusive of claims paid under a policy established by the guarantee agency that is—

(A) Required by § 682.401(b)(10)(ii)(F); or

(B) Consistent with § 682.516(a)(1).

(3) "The Secretary's equitable share" is defined in § 682.404(e).

(c)(1) If a guarantee agency enters into a supplemental reinsurance agreement for both the GSLP and the PLUS Program, the agency must include its loans under both programs in calculating the Secretary's reinsurance payment percentage and the "amount of loans in repayment," as defined in paragraph (b) of this section.

(2) If a guarantee agency that has a reinsurance agreement for PLUS loans and GSLP loans under § 682.404 enters into a supplemental reinsurance agreement for one, but not both, of the programs, the guarantee agency must maintain separate records for each program sufficient to enable the Secretary to determine—

(i) The reinsurance percentage payable by the Secretary on reinsurance claims filed by the agency under each program; and

(ii) The Secretary's equitable share of borrower payments, as defined in § 682.404(e), received after payment by the Secretary of reinsurance claims under each program.

(d)(1) The supplemental reinsurance agreement requires that—

(i) The agency shall ensure that the program requirements of paragraph (e) of this section are continuously met;

(ii) An agreement may be renewed only if the agency's program complies with all the terms of the agreement and all pertinent provisions of the Act and regulations; and

(iii) Before the Secretary pays a supplemental reinsurance claim, the guarantee agency must submit to the Secretary the quarterly report required by the Secretary for the quarter ending September 30, containing complete and accurate data, in order for the Secretary to calculate the "amount of loans in repayment" at the end of the preceding fiscal year as that term is defined in paragraph (b)(2) of this section.

(2) The supplemental reinsurance agreement contains such other requirements as the Secretary may find necessary.

(e) Program requirements: (1) *GSLP loan maximums.* (i) The maximum annual amount of a GSLP loan that a guarantee agency guarantees for an eligible student who is carrying at least a half-time workload for an academic year or its equivalent must be—

(A) $2,500, in the case of an undergraduate student, but not more than the maximum loan amounts specified in § 682.506(b)(1); and

(B) $5,000, in the case of a graduate or professional student; and

(ii) The agency must guarantee a maximum aggregate unpaid principal amount of—

(A) $12,500, in the case of an undergraduate student; and

(B) $25,000, in the case of a graduate or professional student, including loans made to the borrower prior to the borrower's becoming a graduate or professional student.

(2) *PLUS Program loan maximums.* (i) The maximum annual amount, attributable to one or more PLUS Program loans, that the agency guarantees for or on behalf of an eligible student who is carrying at least a half-time workload for an academic year or its equivalent must be—

(A) $2,500, including any amounts borrowed under the GSLP, in the case of an independent undergraduate student;

(B) $3,000, in the case of a graduate or professional student; and

(C) At least $2,500 but not more than $3,000, in the case of a parent borrower on behalf of each eligible student.

(ii) The agency must guarantee a maximum aggregate unpaid principal amount of—

(A) $12,500, including any amount borrowed under the GSLP, in the case of an independent undergraduate student;

(B) $15,000, in the case of a graduate or professional student; and

(C) At least $12,500 but not more than $15,000, in the case of a parent borrower on behalf of each eligible student.

(3) *Guarantee liability.* The guarantee agency shall guarantee 100 percent of the unpaid principal of each loan guaranteed.

(4) *School eligibility.* Except in the case of correspondence schools, a guarantee agency's eligibility criteria for the participation of schools in its program may not be more stringent than those for the FISLP and the Federal PLUS program. However, the agency may exclude a school from its program if—

(i) The school's eligibility is limited, suspended, or terminated by the Secretary under 34 CFR Part 668, or by

the agency under standards and procedures approved by the Secretary; or

(ii) There is a State constitutional prohibition affecting the school's eligibility.

(5) *School lender provisions.* (i) The agency shall provide that a school may be a lender in its program under reasonable criteria unless—

(A) The school's lending eligibility has been limited, suspended, or terminated by the Secretary under § 682.609 or Subpart G of this part, or by the agency under standards and procedures approved by the Secretary; or

(B) There is a State constitutional prohibition affecting the school's lending eligibility.

(ii) The agency may not guarantee a loan made by a school lender that is not located in the geographic area that the agency serves.

(6) *Out-of-State schools.* The agency shall guarantee GSLP or PLUS loans for eligible borrowers who are legal residents of the State where the agency operates, but who attend participating schools out of the State, or, in the case of parent borrowers, are legal residents of the State where the agency operates, but are borrowing on behalf of students attending participating schools out of the State. In guaranteeing these loans, the agency must not impose any restrictions not applicable to borrowers who are legal residents of the State attending in-State schools, or to parent borrowers who are legal residents of the State and are borrowing for students attending in-State schools.

(20 U.S.C. 1078, 1078–1, 1078–2, 1082)

§ 682.406 Conditions of reinsurance coverage.

(a) The Secretary makes a reinsurance payment on a loan to a guarantee agency only if—

(1) The lender exercised due diligence in making and servicing the loan, as prescribed by rules of the agency;

(2) The lender exercised due diligence in collecting the loan through collection efforts meeting the requirements of § 682.411;

(3) The loan was in default before the agency paid a default claim filed thereon;

(4) The lender filed a default claim thereon with the guarantee agency within 90 days of default;

(5) The agency paid a default claim filed by the lender thereon with the agency within 90 days of the date the lender filed the claim;

(6) The agency submitted a request for such payment in such form, and accompanied by such documentation as the Secretary prescribes; and

(7) The agency and lender complied with all other Federal requirements with respect to the loan.

(b) Notwithstanding paragraph (a) of this section, the Secretary may waive his right to refuse to make a reinsurance payment when, in the Secretary's judgment, the best interests of the United States so require.

(20 U.S.C. 1078, 1078–1, 1078–2, 1082)

§ 682.407 Administrative cost allowances for guarantee agencies.

(a)(1) To the extent that Congress appropriates funds for this purpose, the Secretary pays to a guarantee agency having a basic program agreement a primary administrative cost allowance and, to an agency having a reinsurance agreement, a secondary administrative cost allowance.

(2)(i) Payments of allowances to a guarantee agency for any fiscal year under paragraphs (b)(1) and (b)(2) of this section do not exceed, for each administrative cost allowance, one-half of one percent of the total principal amount of loans guaranteed by the agency during that fiscal year.

(ii) If the amount appropriated for any fiscal year is insufficient to pay all guarantee agencies the full amounts for which they would otherwise be eligible, payments to all agencies are proportionately reduced.

(iii) In the event of such an insufficiency, if additional funds become available for making payments for that fiscal year, additional payments are distributed on the same basis as they were reduced.

(3) Application: The guarantee agency must submit an application for each allowance to the Secretary by January 1 of the fiscal year for which it is requesting the allowance. In addition to other information and assurances that the Secretary may reasonably require, the application must contain—

(i) Information showing the agency's ability to collect loans and provide preclaim assistance to its lenders, including descriptions of staff size and activities in these areas;

(ii) An estimate of the costs that will be eligible for payments under this section;

(iii) Assurances that sufficient administrative and fiscal procedures, including an independent audit, conducted in accordance with § 682.410(b)(1), will be used to ensure that administrative allowances are used in accordance with the provisions of this section;

(iv) A report of the most recent audit, conducted in accordance with § 682.410(b)(1), submitted in a format prescribed by the Secretary;

(v) Assurances that the guarantee agency will furnish any further information, including estimates, that the Secretary may reasonably require to carry out the provisions of this section;

(vi) For the primary allowance only, an estimate of the total amount of new loan volume expected to be guaranteed during the fiscal year; and

(vii) For the secondary allowance only, assurances that the agency's program—

(A) Meets and will continue to meet all the requirements contained in § 682.405(e) for a supplemental reinsurance agreement;

(B) Guarantees GSLP or PLUS loans for eligible students who are not legal residents of the State where the agency operates, but who attend participating schools in the State, other than correspondence schools, without imposing any restrictions not imposed on legal residents of the State who attend schools in the State other than correspondence schools; and

(C) Guarantees PLUS loans to parent borrowers who ar not legal residents of the State where the agency operates, but who are borrowing for students attending participating schools in the State, other than correspondence schools, without imposing any restrictions not imposed on residents of the State who borrow for students attending schools in the State, other than correspondence schools.

(4) The Secretary's payment of the secondary allowance establishes an agreement between the Secretary and the guarantee agency with respect to—

(b) Use of funds: (1) A guarantee agency may use the administrative cost allowances only to meet administrative costs related to the GSLP and PLUS Program.

(2) A guarantee agency may not use the administrative cost allowances to meet costs—

(i) Taken into account by the agency under the formula for determining the "Secretary's equitable share" of borrowers payments made after the Secretary has paid reinsurance claims to the agency under § 682.404(e); or

(ii) For which the agency has been, or will be, reimbursed from a source other than the payment provided by this section.

(3) If a guarantee agency uses the allowances paid under this section to pay for a portion of the price of an asset it buys, and the agency subsequently sells that asset, the agency shall repay to the Secretary a percentage of the sale proceeds equal to the percentage of the original purchase price of the asset paid for with the allowances.

(20 U.S.C. 1078, 1078-1, 1078-2, 1082)

§ 682.408 GSLP loan disbursement through a guarantee agency escrow agent.

(a) *General.* (1) A guarantee agency may act as an escrow agent for the purpose of receiving GSLP loan proceeds disbursed by an eligible lender, other than a school or State lender, and transmitting those proceeds to borrowers in multiple installments if the lender and guarantee agency have entered into an agreement for this purpose.

(2) In its capacity as escrow agent, the guarantee agency may—

(i) Commingle the proceeds of the GSLP loans paid to it pursuant to an escrow agreement;

(ii) Invest the GSLP loan proceeds in obligations of the Federal Government or obligations that are insured or guaranteed by the Federal Government; and

(iii) Retain for its own use interest or other earnings on those investments.

(b) *Disbursement by the lender.* The lender shall disburse the loan funds to the escrow agent in any manner agreed to by the escrow agent and the lender, and shall simultaneously give written notice of the disbursement to the borrower.

(c) *Transmittal of loan proceeds to schools by the escrow agent.* (1) The escrow agent shall, in accordance with paragraph (c)(2) of this section, transmit to the school the loan proceeds received under paragraph (b) of this section by means of a check, that—

(i) Is copyable to the borrower and the school identified on the borrower's loan application;

(ii) Requires the personal endorsement of the borrower; and

(iii) Is sent directly to the school.

(2) The escrow agent shall—

(i) No later than 30 days after the beginning of each academic period in the period of attendance for which the loan is made, transmit to the school the lesser of—

(A) The remaining balance of the borrower's GSLP loan proceeds; or

(B) An amount equal to X/N, where X equals the GSLP loan proceeds that were sent to the escrow agent, and N equals the number of academic periods in the period of attendance for which the loan is made. For a school not using a semester, trimester or quarter system, the number of academic periods in the period of attendance for which the loan is made, for purposes of this section, may be established by the escrow agent, but must be at least two;

(ii) Promptly notify the school receiving the proceeds that the check is part of a multiple transmittal. The escrow agent may include a separate notice to this effect with the check or may include this notice on the face of the check; and

(iii) At the time of the first transmittal, give the student a schedule of the estimated amount and dates of all future transmittals.

(3) The escrow agent shall transmit all proceeds of the loan to the school at least 60 days before the end of the period of attendance for which the loan is made.

(d) *Return of untransmitted proceeds.* The escrow agent shall return any untransmitted proceeds of a loan to the lender within 15 working days after learning that the student has not enrolled, or has ceased to be enrolled, on at least a half-time basis during the period of attendance for which the loan was intended.

(20 U.S.C. 1078, 1082)

§ 682.409 Assignment by guarantee agencies of defaulted loans to the Secretary.

(a) When the Secretary determines that such action is necessary to protect the Federal fiscal interest, the Secretary may direct a guarantee agency to assign to the Secretary for collection a defaulted loan on which the Secretary has made a payment under §§ 682.404 or 682.405. In making this determination, the Secretary considers all relevant information available to the Secretary, including any information and documentation submitted by the guarantee agency.

(b)(1) When a guarantee agency assigns a defaulted loan to the Secretary, the agency releases all rights and title to that loan. The agency does not share in any amounts collected from the borrower by the Secretary on a loan assigned under this section, regardless of the reinsurance percentage paid on the loan.

(2) The Secretary does not pay the guarantee agency any compensation for a loan assigned under this section.

(c)(1) A guarantee agency shall assign a loan to the Secretary at such time, in such a manner, and with such documentation as the Secretary may require.

(2) The documents that the assignor agency shall submit with a loan assigned under this section include, but are not limited to—

(i) The loan application;

(ii) The promissory note; and

(iii) The payment and collection histories for the loan.

(3) The guarantee agency shall execute an assignment to the United States of America of all right, title, and interest in the promissory note evidencing a loan assigned under this section.

(d) Assignment of a loan does not affect calculation of any default rate under this Part. However, the Secretary accounts, in calculations of default rates, for any collections achieved by the Secretary on loans assigned by an agency.

(20 U.S.C. 1078, 1978-2, 1082)

§ 682.410 Fiscal, administrative, and enforcement requirements.

(a) *Fiscal requirements.* The fiscal procedures a guarantee agency establishes shall include, at a minimum, the following:

(1) The guarantee agency shall establish and maintain a reserve fund to which the guarantee agency shall credit—

(i) Federal advances obtained under, and matching funds required by, section 422(a) of the Act;

(ii) Funds appropriated by a State for the agency's loan guarantee program;

(iii) Federal advances obtained under § 682.403;

(iv) Funds received by the guarantee agency as loan insurance premiums;

(v) Administrative cost allowances received by the guarantee agency under § 682.407;

(vi) Funds received by the guarantee agency for the agency's loan guarantee program from gift, grant, or other sources;

(vii) Funds collected on defaulted loans;

(viii) Death, disability, bankruptcy, and reinsurance payments received from the Secretary; and

(ix) Funds earned from investments under paragraph (a)(5) of this section;

(2) Except as provided in paragraphs (a)(3) and (a)(4) of this section, a guarantee agency may use the assets of the reserve fund established under paragraph (a)(1) of this section only to—

(i) Guarantee loans under the guarantee agency's loan guarantee program;

(ii) Pay default claims;

(iii) Pay death, disability, and bankruptcy claims;

(iv) Refund overpayments of insurance premiums;

(v) Pay to the Secretary the Secretary's equitable share of borrower payments; and

(vi) Repay advances made by the Secretary;

(3) Except as provided in paragraph (a)(4) of this section, a guarantee agency may also use loan insurance premiums, administrative cost allowances, and interest or investment earnings for payments necessary for the proper

administration of the guarantee agency's loan guarantee program;

(4)(i) The guarantee agency may use the amount of Federal advances identified in paragraph (a)(1)(iii) of this section, and interest or other earnings on those advances, only to pay default claims.

(ii) The guarantee agency shall account separately for the funds described in paragraph (a)(4)(i) of this section; and

(5) The guarantee agency may invest the assets of the reserve fund described in paragraph (a)(1) of this section only in low-risk securities, such as obligations issued or guaranteed by the United States or a State, and shall exercise the level of care in such investment required of a fiduciary charged with the duty of investing the money of others.

(b) *Administrative requirements.* The administrative procedures a guarantee agency establishes shall include, at a minimum, the following:

(1) The guarantee agency must arrange for an independent biennial financial and compliance audit of the agency's guaranteed loan program that meets each of the following requirements:

(i) The audit must examine the agency's compliance with the Act, applicable regulations, and agreements entered into under this part.

(ii) The audit must examine the agency's financial management of its loan guarantee program.

(iii) The audit must be conducted in accordance with the general standards and the standards for financial and compliance audits of the United States General Accounting Office's (GAO) *Standards for Audit of Governmental Organizations, Programs, Activities and Functions.* Procedures for audits are contained in audit guides developed by, and available from, the Office of the Inspector General of the Department. These audit guides do not impose any requirements beyond those imposed under applicable statutes and regulations, and GAO's *Standards.*

(iv) The audit must be conducted not less frequently than once every two years, and must be submitted to the Secretary within six months of the end of the audit period. The first audit must cover the agency's activities for a period beginning no later than the effective date of this requirement. Each subsequent audit must cover the agency's activities for the entire period since the preceding audit.

(v) With regard to a guarantee agency that is an agency of a State government, an audit conducted in accordance with 31 U.S.C. 7502 satisfies the requirements of this paragraph for the period covered by the audit.

(2) The guarantee agency shall charge interest on each loan for which the Secretary has paid a reinsurance claim, at a rate that is the greater of—

(i) The rate established by the terms of the original promissory note; or

(ii) The rate provided for by State law.

(3)(i) The guarantee agency shall engage in at least the collection efforts described in paragraphs (3)(iii)–(ix) of this subsection on a loan on which it pays a default claim filed by a lender.

(ii) The periods of time set forth in paragraphs (3)(iii)–(vi) of this subsection refer to the number of days that elapse from the date the agency pays a default claim on a loan. In the case of a borrower who commences repayment of the loan after the agency pays a default claim thereon, the periods of time set forth in paragraphs (3)(iii)–(v) of this subsection refer to the number of days that elapse from the date that is 40 days following the agency's receipt of the most recent payment. However, nothing in this paragraph (3) requires an agency to report a default to a credit bureau more than once. References to the "borrower" include all endorsers on a loan.

(iii) One–45 days: During this period, the agency shall—

(A) Send a written notice to the borrower stating that the agency has paid a default claim filed by the lender on the loan, and has taken assignment of the loan. In addition, the notice must forcefully demand that the borrower immediately commence repayment of the loan, and must warn the borrower that, if he fails to do so, the agency will report the default to a cognizant credit bureau, thereby damaging the borrower's credit rating, and will institute a civil suit against the borrower to compel repayment of the loan; and

(B) Diligently attempt to contact the borrower by telephone to demand repayment of the loan.

(iv) 46–90 days: During this period the agency shall—

(A) Diligently attempt to contact the borrower by telephone to demand repayment of the loan;

(B) Report the default to a cognizant credit bureau; and

(C) Send a written notice to the borrower demanding that the borrower immediately commence repayment of the loan, and informing the borrower that the default has been reported to a credit bureau and that the borrower's credit rating has thereby been damaged.

(v) 91–135 days: During this period, the agency shall—

(A) Diligently attempt to contact the borrower by telephone to demand repayment of the loan; and

(B) Send one additional collection letter at least as forceful as the notice described in paragraph (iii)(A) of this subsection.

(vi) 136–180 days: During this period, the agency shall send a written notice to the borrower forcefully demanding repayment in full on the loan, and indicating that it is the final notice the borrower will receive before the agency institutes a civil suit to compel repayment of the loan;

(vii) 181–225 days: During this period, but not sooner than 30 days after sending the notice described in paragraph (vi), the agency shall institute a civil suit against the borrower for repayment of the loan.

(viii) Not later than 10 days after its receipt of information indicating that it does not know the borrower's current address, or the 60th day after its payment of a default claim on a loan, whichever is later, the agency shall diligently attempt to locate the borrower through the use of all available skip-tracing techniques, including, but not limited to, any skip-tracing assistance available from the Internal Revenue Service, credit bureaus, and State motor vehicle departments.

(ix) (A) The agency shall diligently attempt to enforce a judgment obtained against a borrower respecting a loan. If, after doing so, the agency is unable to obtain full satisfaction of the judgment because the borrower lacks the means to pay, the agency shall conduct diligent semi-annual inquiries to determine if the borrower has since acquired the means to satisfy the remainder of the judgment.

(B) If the agency determines that the borrower has acquired the means to satisfy the remainder of the judgment, the agency shall, not later than 60 days thereafter, notify the borrower in writing of its intention to resume enforcement efforts on the judgment unless the borrower makes payment *in full* on all outstanding amounts.

(C) If the borrower does not make payment in full within 30 days of the date the agency sends the notice described in the preceding paragraph, the agency shall, within 30 days thereafter, institute civil proceedings to enforce the remainder of the judgment.

(x) The agency may discontinue conducting the semi-annual inquiries concerning a borrower's means required by paragraph (3)(ix) of this subsection only in accordance with write-off criteria and procedures approved by the Secretary.

(c) *Enforcement requirements.* A guarantee agency shall take such measures, and establish such controls, as are necessary to ensure its vigorous enforcement of all Federal, State, and guarantee agency requirements applicable to its loan guarantee program, including, at a minimum, the following:

(1) Conducting comprehensive biennial on-site program reviews of at least—

(i) Each participating lender whose guaranteed loan volume in the preceding year equaled or exceeded two percent of the total of all loans guaranteed in that year by the agency; and

(ii) Each participating school in the agency's geographic area whose students received, or benefited from, loans, the total amount of which equaled or exceeded two percent of the total of all loans guaranteed in the preceding year by the agency.

(2) Seeking prompt recovery of all funds found in such reviews to have been improperly retained by the participants, and monitoring the implementation by participants of corrective action as a result of such reviews.

(3) Adopting procedures for identifying fraudulent loan applications.

(4) Undertaking, or arranging with State or local law enforcement agencies for, the prompt and thorough investigation of all allegations and indications of criminal or other programmatic misconduct by its program participants.

(5) Promptly reporting all such allegations and indications having a substantial basis in fact, and the scope, progress, and results of the agency's investigations thereof, to the Secretary.

(6) Referring appropriate cases to State or local authorities for criminal prosecution or civil litigation.

(7) Cooperating with all program reviews, investigations, and audits conducted by the Secretary relating to the agency's loan guarantee program.

(20 U.S.C. 1078, 1078–1, 1082, 1097)

§ 682.411 Due diligence by lenders in the collection of guarantee agency loans.

(a) In the event of delinquency on a loan guaranteed by a guarantee agency, the lender shall engage in at least the collection efforts described in paragraphs (c)–(h) of this section.

(b) For purposes of this section, delinquency on a loan begins on the first day after the due date of the first missed payment not later made, or 30 days after the day the lender discovers that the borrower has entered the repayment period, whichever is later. If a payment is made late, the first day of delinquency is the due date of the next missed payment not later made.

(c) One–30 days delinquent: During this period, the lender shall send at least two written notices or collection letters to the borrower informing the borrower of the delinquency and urging the borrower to make payments sufficient to eliminate the delinquency.

(d) 31–60 days delinquent: During this period, the lender shall make diligent efforts to contact the borrower by telephone. If the lender is unable, despite such efforts, to reach the borrower by telephone, the lender shall send at least two forceful collection letters to the borrower urging the borrower to cure the delinquency. The letters shall also warn the borrower that, if the delinquency is not cured, the lender will assign the loan to the guarantee agency which in turn will report the default to a credit bureau, thereby damaging the borrower's credit rating, and will bring suit against the borrower to compel repayment of the loan.

(e) 61–90 days delinquent: During this period, the lender shall again make diligent efforts to contact the borrower by telephone. If the lender is unable, despite such efforts, to reach the borrower by telephone, the lender shall send at least one more collection letter no less forceful than those described in paragraph (d).

(f) 91–120 days delinquent: During this period, the lender shall send a final demand letter to the borrower, unless the borrower's address is unknown, requiring repayment of the loan in full. The lender shall allow the borrower at least 30 days to respond to the final demand letter before filing a default claim on the loan.

(g) Within 10 days of its receipt of information indicating it does not know the borrower's current address, the lender shall diligently attempt to locate the borrower, through the use of normal commercial skip-tracing techniques. These efforts shall include, but are not limited to, contacting the endorser, relatives, references, and any other individuals and entities identified in the borrower's loan file.

(h) If the agency that guaranteed the loan offers preclaims assistance, the lender shall request such assistance prior to the 90th day of delinquency, or as soon as the assistance is available, whichever is later.

(20 U.S.C. 1078, 1078–1, 1082, 1087–1)

§ 682.412 Remedial actions.

(a) The Secretary requires a lender to repay interest benefits and special allowance on a loan guaranteed by a guarantee agency—

(1) For any period beginning on the date of a failure by the lender, with respect to the loan, to comply with paragraphs (a)(1)–(a)(4), or (a)(7) of § 682.406;

(2) For any period beginning on the date of the lender's failure, with respect to the loan, to meet a condition of guarantee coverage established by the guarantee agency, to the date, if any, on which the guarantee agency reinstated the guarantee coverage pursuant to policies and procedures established by the agency and approved by the Secretary;

(3) For any period as to which the lender, with respect to the loan, violates the requirements of Subpart C of this part;

(4) For any period beginning on the day after the Secretary's obligation to pay special allowance on the loan terminates under § 682.302(d).

(b) The Secretary requires a guarantee agency to repay reinsurance payments on a loan—

(1) If the lender or the agency failed to meet the requirements of paragraphs (a)(1)–(a)(4), or (a)(6) of § 682.406;

(2) If the lender failed to meet a condition of guarantee coverage set by the agency, unless the agency reinstated guarantee coverage on the loan pursuant to policies and procedures established by the agency and approved by the Secretary;

(3) If the agency failed to exercise due diligence in collection of the loan in accordance with procedures established under § 682.410(b)(3).

(c)(1) In addition to requiring repayment of reinsurance payments pursuant to paragraph (b) of this section, the Secretary may take one or more of the following remedial actions against a guarantee agency that makes an incomplete or incorrect statement in connection with any agreement entered into under this part, or violates any applicable Federal requirement:

(i) Require the repayment by the agency of payments made to the agency.

(ii) Withhold payments to the agency.

(iii) Limit the terms and conditions of the agency's continued participation in the GSLP or PLUS Program.

(iv) Suspend or terminate agreements with the agency.

(v) Require repayment from the agency of any related payments which the Secretary has become obligated to make to others.

(2) The Secretary's decision to require repayment of funds by an agency, to withhold funds, or to limit, suspend, or terminate an agency's GSLP or PLUS Program participation, does not become final until the Secretary provides the

agency with written notice of the intended action and an opportunity to be heard thereon. However, the Secretary may withhold payments or suspend an agreement prior to giving notice and an opportunity to be heard if the Secretary finds such emergency action necessary to prevent substantial harm to Federal interests.

(d) Notwithstanding paragraphs (a) through (c) of this section, the Secretary may waive the right to recover a payment when, in the Secretary's judgment, the best interests of the United States so require.

(e) Once final, the Secretary's decision to require repayment of funds or to take other remedial action against a guarantee agency or lender under this section is conclusive and binding on the agency or lender.

(Note.—A decision by the Secretary under this section is subject to judicial review under 5 U.S.C. 706 and 41 U.S.C. 321–322.)

(20 U.S.C. 1078, 1078–1, 1078–2, 1082, 1087–1, 1097)

§ 682.413 Records, reports, and inspection requirements for guarantee agency programs.

(a) *Records.* (1) A guarantee agency shall keep the records required by this section and such other records as are necessary to document fully the accuracy of reports required by this subpart and the right of the agency to receive or retain payments made by the Secretary under this part.

(2) The guarantee agency shall retain records for each loan for at least five years after the loan is paid in full or has been determined to be uncollectible in accordance with the agency's write-off procedures. For the purposes of this section, the term "paid in full" includes loans paid by the Secretary on account of the borrower's death or permanent and total disability, or discharge of the loan in bankruptcy.

(3) The guarantee agency shall require participating lenders to keep the records described in § 682.522(a).

(4) A guarantee agency or lender may store records on microfilm or computer format. However, a lender or guarantee agency holding a promissory note shall retain the original note until the loan is paid in full or assigned to the Secretary. When a loan is paid in full by the borrower, the lender or guarantee agency shall either return the original note to the borrower or notify the borrower, under a procedure that is alternatively acceptable under State law, that the loan is paid in full, and retain a copy for the prescribed period.

(b) *Reports.* A guarantee agency shall submit to the Secretary the following reports:

(1) A report concerning the status of the agency's reserve fund and the operation of the agency's loan guarantee program, at such time and in the manner that the Secretary may reasonably require. The Secretary does not pay the agency amounts that are dependent upon data contained in the report until a complete and accurate report is received.

(2) Annually, for each State in which it operates, a report of the total guaranteed loan volume, default volume, and default rate for each of the following categories or originating lenders on all loans guaranteed after December 31, 1980:

(i) Schools.

(ii) State or private nonprofit lenders.

(iii) Commercial financial institutions (banks, savings and loan associations, and credit unions.)

(iv) All other types of lenders.

(3) For a guarantee agency with a supplemental reinsurance agreement, by July 1 of each year, a report on—

(i) Its eligibility criteria for school lenders;

(ii) Its procedures for the limitation, suspension, and termination of schools and lenders;

(iii) A list of all schools that applied for lender eligibility in the preceding 12 months and a summary of the action taken on those applications;

(iv) A list of all school lenders participating in the agency's program;

(v) A description of any actions taken in the preceding 12 months to limit, suspend, or terminate the participation of a school or lender in the agency's program; and

(vi) The steps the agency has taken to ensure its compliance with § 682.410(c)(2) through (6), including the identity of any law enforcement agency with which the agency has made arrangements for that purpose.

(4) Any other information concerning the loan insurance program, at such frequency as determined by the Secretary.

(c) *Inspection requirements.* (1) A guarantee agency shall give the Secretary or the Secretary's designee access to its records in order to verify the correctness of the reports described in paragraph (b) of this section, or the right of the agency to receive or retain payments made by the Secretary under this part.

(2) A guarantee agency shall require in its agreement with a lender, or in its published rules or procedures, that the lender, or its agent, give the Secretary or the Secretary's designee and the guarantee agency access to the lender's records in order to verify the accuracy of the information provided by the lender pursuant to § 682.401(b) (12) and (13), and the right of the lender to receive or retain payments made under this part.

(20 U.S.C. 1078, 1078–1, 1078–2, 1082, 1087–1)

Subpart E—Federal Insured Student Loan Program and Federal PLUS Program

§ 682.500 Circumstances under which loans may be guaranteed by the Secretary.

(a) The Secretary may guarantee all—

(1) FISLP and Federal PLUS Program loans made by lenders located in a State in which no State or private nonprofit guarantee agency has in effect an agreement with the Secretary under § 682.401 to serve as guarantor in that State;

(2) Federal PLUS Program loans made by lenders located in a State in which a State or private nonprofit guarantee agency has in effect an agreement with the Secretary under § 682.401 but does not provide a loan guarantee program for PLUS borrowers; and

(3) FISLP loans made by lenders located in a State in which a guarantee agency program is operating but is not reasonably accessible to students who meet the agency's residency requirements.

(b) The Secretary may guarantee FISLP loans made by a lender located in a State where a guarantee agency operates a program that is reasonably accessible to students who meet the residency requirements of that program only for—

(1) A student who does not meet the agency's residency requirements;

(2) A lender who is not able to obtain a guarantee from the guarantee agency for at least 80 percent of the loans the lender intends to make over a 12-month period because of the agency's residency requirements;

(3) With the approval of the guarantee agency, a student who has previously received from the same lender a FISLP loan that has not been repaid; or

(4) All students at a school, if the Secretary finds that—

(i) No single guarantee agency program is reasonably accessible to students at that school, as compared to students at other schools during a comparable period of time; and

(ii) Guaranteeing loans made in the State to students attending that school would significantly increase the access of students at that school to GSLP loans if—

(A) The guarantee agency does not recognize the school as being eligible, but the school is eligible under the FISLP; or

(B) A majority of the persons enrolled at the school meet the conditions of student eligibility for FISLP loans, but are not recognized as eligible under the guarantee agency program.

(c) For purposes of paragraphs (a) and (b) of this section, a lender is considered to be located in the same State as a school if the lender—

(1) Has a relationship with the school such that the school will be considered to have originated loans made to students at that school;

(2) Has a majority of its voting stock held by the school; or

(3) Has common ownership or management with the school and more than 50 percent of the loans made by that lender are made to students at that school.

(d) As a condition for guaranteeing loans under the FISLP, the Secretary may require the lender to submit evidence of circumstances that would justify loan guarantees under the provisions of this section.

(e) With regard to a school lender which has entered into an agreement with the secretary under § 682.601, the Secretary denies loan guarantees on the basis of this section only if the Secretary first determines that all eligible students at that school who make a conscientious effort to obtain a loan from another lender will find a loan to be reasonably available. For purposes of this paragraph, the determination of loan availability is based on studies and surveys which the Secretary considers satisfactory.

(20 U.S.C. 1071, 1073, 1078–2, 1082)

§ 682.501 Extent of Federal guarantee under the FISLP and the Federal PLUS Program.

(a) *General.* Except as provided in paragraph (b) of this section, the Secretary's guarantee liability on any FISLP loan or Federal PLUS Program loan is 100 percent of the unpaid principal balance and, to the extent permitted under § 682.519, accrued interest.

(b) *Special provisions for State lenders.* (1) Except as described in paragraph (b)(2) of this section, the Secretary's guarantee liability is less than 100 percent under the following conditions:

(i) When the total of default claims under the FISLP and the Federal PLUS Program paid by the Secretary to a State lender during any fiscal year reaches five percent of the amount of the FISLP and Federal PLUS Program loans in repayment at the end of the preceding fiscal year, the Secretary's guarantee liability on a claim subsequently paid during that fiscal year is 90 percent of the amount of the unpaid principal balance plus accrued interest.

(ii) When the total of default claims under the FISLP and Federal PLUS Program paid by the Secretary to a State lender during any fiscal year reaches nine percent of the "amount of the FISLP and Federal PLUS Program loans in repayment" at the end of the preceding fiscal year, the Secretary's guarantee liability on a claim subsequently paid during that fiscal year is 80 percent of the amount of the unpaid principal balance plus accrued interest.

(iii) For purposes of this paragraph, the total default claims paid by the Secretary during any fiscal year does not include claims paid under the provisions of §§ 682.515 or 682.516.

(2) The potential reduction in guarantee liability does not apply to a State lender during the first Federal fiscal year of its operation as a lender under either the FISLP or the Federal PLUS Program, and during each of the four succeeding fiscal years.

(3) For the purposes of this section, the "amount of the FISLP and Federal PLUS Program loans in repayment" means the original principal amount of all FISLP and Federal PLUS Program loans guaranteed by the Secretary less—

(i) The original principal amount of loans on which—

(A) Under the FISLP, the borrower has not yet reached the repayment period;

(B) Payment in full has been by the borrower; or

(C) The borrower was in deferment status at the time repayment of principal was scheduled to begin, and remains in deferment status; and

(ii) The amount paid by the Secretary for default claims on loans, exclusive of claims paid under the provisions of §§ 682.515 or 682.516.

(4) For the purposes of this paragraph, payments by the Secretary on a loan that the original lender assigned to a subsequent holder are considered payments made to the original lender.

(5) State lenders shall consolidate FISLP and Federal PLUS Program loans for the purpose of calculating the amount of the Secretary's guarantee liability under this section.

(20 U.S.C. 1075, 1078–2, 1082)

§ 682.502 The application to be a lender.

(a) In order to be considered for participation in the FISLP and the Federal PLUS Program, a lender must submit an application to the Secretary.

(b) In determining whether to enter into a guarantee contract with an applicant, and, if so, what the terms of the contract will be, the Secretary considers—

(1) Whether the applicant is an eligible lender according to the definition contained in section 435(g)(1) of the Act;

(2) Whether the applicant is capable of complying with the regulations in this part as they apply to lenders;

(3) Whether the applicant is capable of implementing adequate procedures for making, servicing, and collecting loans;

(4) Whether the applicant has had prior experience with a similar Federal, State, or private nonprofit student loan program, and the amount and percentage of loans that are currently delinquent or in default under that program;

(5) The financial resources of the applicant; and

(6) In the case of a school that is seeking approval as a lender, its accreditation status (with the preferred condition being accredited).

(c) The Secretary may require an applicant to submit sufficient materials with its application so that the Secretary may fairly evaluate it in accordance with the above criteria.

(d) Denial of participation: (1) If the Secretary decides not to approve the application for an insurance contract, the reason for the decision is included in the Secretary's response.

(2) The Secretary provides an opportunity for the lender to meet with a designated Department official if the lender wishes to appeal the Secretary's decision.

(3) However, the Secretary need not explain the reasons for the denial, or grant the lender an opportunity to appeal, if the lender submits its application within 6 months of a previous denial.

(20 U.S.C. 1078–2, 1079, 1082)

§ 682.503 The guarantee contract.

(a)(1) To participate in the FISLP and Federal PLUS Program, a lender must hold a guarantee contract with the Secretary. No loan is guaranteed unless it is covered by such an agreement.

(2) In general, under a guarantee contract, the lender agrees to comply with all laws, regulations, and other requirements applicable to its participation as a lender in the FISLP and the Federal PLUS Program. In return the Secretary agrees to guarantee each eligible FISLP and Federal PLUS Program loan held by the lender against the borrower's default, death, total and permanent disability, or bankruptcy.

(3) The Secretary may include in a contract a limit on the duration of the contract and the number or amount of

FISLP or Federal PLUS Program loans the lender may make or hold.

(b)(1) Except as otherwise approved by the Secretary, a guarantee contract with a school lender shall limit the FISLP and Federal PLUS Program loans made by that school lender that will be covered by the Federal guarantee to those loans made to students, or to parents borrowing on behalf of students, who are—

(i) In attendance at that school;

(ii) In attendance at other schools under the same ownership as that school; or

(iii) Employees or dependents of employees, or whose parents are employees, of that school lender or other schools under the same ownership, under circumstances the Secretary considers appropriate for loan guarantees.

(2) A limit imposed under paragraph (b)(1) of this section on a school lender that makes loans to students, or to parents of students, in attendance at other schools under the same ownership, or to employees, or to dependents or parents of employees of those other schools, may be imposed on a school-by-school basis.

(20 U.S.C. 1078-2, 1079, 1082)

§ 682.504 Issuance of Federal loan guarantees.

(a) A lender having a guarantee contract shall submit an application to the Secretary for a Federal loan guarantee on each intended loan that the lender determines to be eligible for a guarantee. The application must be on a form prescribed by the Secretary. The Secretary notifies the lender whether the loan can be guaranteed and the amount of the guarantee. No disbursement on a loan made prior to the Secretary's approval of that loan is covered by the guarantee.

(b) The secretary issues a guarantee on a FISLP or Federal PLUS Program loan in reliance on the implied representations of the lender that all requirements for the initial eligibility of the loan for guarantee coverage have been met. As described in § 682.520, the continuance of the guarantee is conditioned upon compliance by all holders of the loan with these regulations. The delegation of functions to a servicing agency or another party does not relieve the lender of its reponsibilities in the making, servicing, and collecting of a FISLP or Federal PLUS Program loan.

(20 U.S.C. 1078-2, 1079, 1082)

§ 682.505 Insurance premium.

(a) *General.* The Secretary charges the lender an insurance premium for each loan that is guaranteed.

(b) *Rate.* The rate of the insurance premium is one-fourth of one percent per year of the loan principal, excluding interest or other charges that may have been added to the principal.

(c) *FISLP loans—insurance premium calculations.* (1) The insurance premium for FISLP loans is calculated by—

(i) Counting the number of months beginning with the month following the month in which the loan is to be disbursed and ending 12 months after the borrower's anticipated graduation from the school for attendance at which the loan is sought;

(ii) Dividing one-fourth of one percent of the principal amount of the loan by 12; and

(iii) Multiplying the result obtained in paragraph (c)(i) of this section by that obtained in paragraph (c)(ii) of this section.

(2) In cases where the lender disburses the loan in multiple installments, the insurance premium is calculated for each disbursement from the month following the month that the disbursement is made.

(d) *PLUS loans insurance premium calculation.* The insurance premium for a Federal PLUS Program loan is calculated by—

(1) Using the actual repayment period as a base;

(2) Amortizing the loan in monthly installments over the repayment period;

(3) Determining one-fourth of one percent of each monthly declining principal balance; and

(4) Totalling the monthly amounts derived in paragraph (d)(3) of this section.

(e) *Collection from lenders.* (1) The Secretary may bill the lender for the insurance premium or may require the lender to pay the insurance premium to the Secretary at the time of disbursement of the loan. At the Secretary's discretion, the Secretary may alternatively collect the insurance premium by offsetting it against amounts payable by the Secretary to the lender.

(2) The Secretary's guarantee on a loan ceases to be effective when the lender fails to pay the insurance premium within 60 days of the date payment is due. The Secretary may, however, excuse late payment of an insurance premium, and reinstate the guarantee coverage on a loan, if the Secretary is satisfied that—

(i) The loan is not in default and the borrower is not delinquent in making installment payments; or

(ii) The loan is in default, or the borrower is delinquent, under circumstances where the borrower has entered the repayment period without the lender's knowledge.

(f) *Collection from borrowers.* The lender may pass along the cost of the insurance premium to the borrower in the form of a one-time charge. If it does so, it shall clearly indicate to the borrower the amount of the insurance premium and the method of calculation.

(g) *Refund provisions.* The insurance premium is not refundable by the Secretary, and need not be refunded by the lender to the borrower, even if the borrower prepays, defaults, dies, becomes totally and permanently disabled, or files a petition in bankruptcy.

(20 U.S.C. 1077, 1078-2, 1079, 1082)

§ 682.506 Limitations on maximum loan amounts.

(a) *General.* The Secretary does not guarantee a FISLP or Federal PLUS Program loan in an amount that would—

(1) Result in an annual loan amount in excess of the student's estimated cost of attendance for the academic period for which the loan is intended less the estimated financial assistance awarded for that period; or

(2) Result in an annual or aggregate loan amount in excess of the permissible annual and aggregate loan limits described in paragraphs (b) through (e) of this section.

(b) *FISLP annual limits.* The total amount a student may borrow in any academic year of study under the GSLP, including the FISLP, may not exceed—

(1) $2,500 in the case of an undergraduate student, but not more than—

(i) The lesser of $2,500 or half the estimated cost of attendance, for a loan made by a State lender or made or originated by a school to a student who—

(A) Is enrolled in the first academic year of undergraduate study; and

(B) Was not previously enrolled in an undergraduate program; or

(ii) $1,500, for a loan made or originated by a school to a student who is enrolled in the first academic year of undergraduate study and was not previously enrolled in an undergraduate program, unless the loan is to be disbursed in two or more installments. None of the installments may exceed one-half of the loan, and the interval between the first and second installments shall be at least one-third

of the academic period for which the loan is intended. However, a loan that is to be made to cover the expenses of a single academic period of less than five months, or an academic period of more than five months where no disbursement is to be made until the last one-third of the academic period, is not subject to these requirements. For purposes of this paragraph, all loans made within a period of 90 days will be considered a single loan; or

(2) $5,000 in the case of a graduate or professional student.

(c) *FISLP aggregate limits.* The Secretary does not guarantee an FISLP loan in an amount that, together with the unpaid principal amount of all other GSLP loans to the student, would result in an aggregate amount in excess of—

(1) $12,500, in the case of an undergraduate student, including any amounts borrowed under the PLUS Program in the case of an independent undergraduate student; or

(2) $25,000, in the case of any graduate or professional student, including loans for undergraduate study.

(d) *Federal PLUS Program annual limits.* The total principal amount of all PLUS Program loans made to, or for the benefit of, an eligible student for any academic year of study may not exceed—

(1) $2,500, including any amounts borrowed by the student under the GSLP, in the case of an independent undergraduate student;

(2) $3,000, in the case of a graduate or professional student; and

(3) $3,000, in the case of a parent borrower.

(e) *Federal PLUS Program aggregate limits.* The total aggregate principal amount of all Federal PLUS Program loans made to or for the benefit of an eligible student may not exceed—

(1) $12,500, including any amounts borrowed by the student under the GSLP, in the case of an independent undergraduate student;

(2) $15,000, in the case of a graduate or professional student; and

(3) $15,000, in the case of a parent borrower.

(20 U.S.C. 1075, 1078–2, 1079, 1082, 1089)

§ 682.507 Disclosure requirements.

(a) A lender shall disclose the following information to a borrower either before or at the time it disburses a loan. Disclosures identified with an asterisk (*) shall be made in the promissory note:

*(1) The lender's name, and the address to which correspondence with the lender and payments should be sent;

*(2) The principal amount of the loan;

*(3) The amount of any charges, including the origination fee and the insurance premium, collected by the lender at the time of or before disbursement of the loan, and an indication of whether those charges are deducted from the proceeds of the loan or paid separately by the borrower;

*(4) The actual interest rate;

(5) The annual and aggregate maximum amounts that may be borrowed;

*(6) An explanation of when repayment of the loan is required and when the borrower is required to pay the interest that accrues on the loan;

*(7) The minimum and maximum number of years in which the loan must be repaid and the minimum amount of required annual payments;

(8) An explanation of any special options the borrower may have for consolidating or refinancing the loan;

*(9) A statement that the borrower has the right to prepay all or part of the loan at any time, without penalty;

*(10) A statement describing the circumstances under which repayment of the loan or interest that accrues on the loan may be deferred;

(11) A statement of availability of the Department of Defense program for repayment of loans on the basis of military service, as provided for in 10 U.S.C. 2141, note;

*(12) The definition of "default" found in § 682.200 of this part, and the consequences to the borrower of a default, including a statement concerning likely litigation and a statement that the default will be reported to a credit bureau or a credit reporting agency;

(13) An explanation of the possible effects of accepting the loan on the eligibility of the student for other forms of student financial assistance; and

*(14) An explanation of any costs the borrower may incur in the making or collection of the loan.

(b) The lender shall also disclose the information listed in this paragraph in a written statement provided to the borrower at or prior to the beginning of the repayment period. The lender shall make the disclosures during the grace period, in the case of an FISLP loan. Should the borrower enter the repayment period without the lender's knowledge, the lender shall provide the required disclosures to the borrower immediately upon discovering that the borrower has entered the repayment period. The lender shall disclose—

(1) The lender's name, and the address to which correspondence with the lender and payments should be sent;

(2) The scheduled date upon which the repayment period is to begin;

(3) The estimated balance owed by the borrower as of the date upon which the repayment period is disclosed, including the estimated amount of interest to be capitalized;

(4) The actual interest rate on the loan;

(5) An explanation of any fees which may accrue or be charged to the borrower during the repayment period;

(6) The borrower's repayment schedule, including the due date of the first installment and the number, amount, and frequency of payments;

(7) An explanation of any special options the borrower may have for consolidating or refinancing the loan;

(8) The estimated total amount of interest to be paid on the loan, assuming that payments are made in accordance with the repayment schedule; and

(9) A statement that the borrower has the right to prepay all or part of the loan at any time, without penalty.

(c) The lender shall provide the information required to be disclosed by paragraphs (a) and (b) of this section at no cost to the borrower.

(20 U.S.C. 1078–2, 1082, 1083a)

§ 682.508 Due diligence in making and disbursing a loan.

(a) *General.* (1) The loan-making process includes processing the loan application and other required forms, approving the borrower for a loan, determining the loan amount, explaining to the borrower his or her responsibilities under the loan, completing and having the borrower sign the promissory note, and disbursing the loan proceeds.

(2) Except as may be authorized by the Secretary, a lender may not delegate its loan-making functions except to a school with whom the lender has an origination relationship. If such a relationship exists, the lender may rely in good faith upon statements of the borrower contained in the loan application, but may not rely upon statements made by the school in the application. A non-school lender that does not have an origination relationship with a school may rely in good faith upon statements of both the borrower and the school that are contained in the application. Except as provided in part 668 subpart E, a school lender may rely in good faith upon statements made by the borrower in the loan application.

(b) *Processing forms.* Before disbursing a loan, a lender must determine that all required forms have been accurately completed by the borrower, the student, the school, and the lender. A lender may not ask the

borrower to sign any form before all information requested from the borrower on that form has been supplied.

(c) *Approval of borrower and determination of loan amount.* (1) A lender may make a loan only to an eligible borrower. To the extent authorized by paragraph (a)(2) of this section, the leader may determine the borrower's eligibility based on the information provided on the application by the school, the borrower, and, if the borrower is a parent, the student on whose behalf the loan is sought.

(2) In determining the amount of the loan to be made, within the limitations of § 682.506, the lender shall review the data on the student's cost of attendance and estimated financial assistance that is provided on the application form. In no case may the loan amount exceed the student's estimated cost of attendance for the academic period for which the loan is intended, less estimated financial assistance.

(d) *Promissory note.* (1) The lender shall obtain from the borrower an executed promissory note for each loan as proof of the borrower's indebtedness.

(2) The Secretary periodically makes a promissory note form available to lenders. A lender may not add any clauses to, or modify any provisions of, the most current promissory note provided by the Secretary without the Secretary's prior approval.

(3) The lender shall give the borrower a copy of each executed note.

(e) *Security, endorsement, and co-makers.* (1) A FISLP of Federal PLUS Program loan shall be made without security.

(2) Except as provided in paragraph (e)(4) of this section, a FISLP or Federal PLUS Program loan shall be made without endorsement or other secondary liability on the note.

(3) A Federal PLUS Program loan may be made to two eligible parents who agree to be jointly liable for repayment of the loan as co-makers.

(4) A lender may require an endorsement by another person on the borrower's FISLP or Federal PLUS Program loan note if the borrower is a minor and cannot, under applicable State law, create a legally binding obligation by his or her own signature. For purposes of this paragraph "endorsement" means a signature of any party, other than the borrower, who is to assume secondary liability for repayment of the loan.

(f) *Loan disbursement.* (1) In disbursing a loan, a lender—

(i) May not disburse a loan prior to the issuance of the guarantee commitment for the loan by the Secretary, except with the Secretary's prior approval;

(ii) Shall disburse loan proceeds by means of a check that—

(A) Except as provided in paragraph (f)(1)(v) of this section, is made co-payable to the borrower and the school identified on the loan application; and

(B) Requires the personal endorsement of the borrower; and

(iii) In the case of a check that is part of a multiple disbursement, shall provide—

(A) A notice to the school indicating that it is part of a multiple disbursement. The lender may include a separate notice to this effect with the check or may include this notice on the face of the check.

(B) At the time of the first disbursement, a schedule of the estimated amount and dates of all future disbursements to the student.

(iv) Except as provided in paragraph (f)(1)(v) of this section, shall send the loan check directly to the school not earlier than is reasonably necessary to meet the student's cost of attendance for the period for which the loan is made, and in no case, without the Secretary's prior approval, earlier than 30 days prior to the date on which the student is scheduled to enroll; and

(v) Shall make the check payable to the borrower and shall send the check directly to the borrower if the borrower is attending a foreign school, or if the borrower is a parent borrowing on behalf of an eligible student, and shall notify the school of the amount of the loan within 30 days of the date on which the check is sent.

(2) Neither a lender nor a school may obtain a borrower's power of attorney or other authorization to endorse a disbursement check on behalf of a borrower. A borrower may not authorize anyone else to endorse a check on his or her behalf.

(g) *Late disbursements.* (1) Under certain circumstances, a lender, with the prior approval of the Secretary, may disburse a loan after the student has ceased to be enrolled on at least a half-time basis or after the expiration date of the guarantee commitment.

(2) The Secretary approves a lender's request to make a disbursement under these circumstances only if the Secretary is satisfied that the loan proceeds will be used for the student's cost of attendance for the period of enrollment for which the loan was intended and during which the student was actually enrolled.

(3) If the lender, after receiving the Secretary's prior approval, makes a late disbursement, the lender shall give notice of that approval to the school at the time the lender sends the loan check to the school.

(20 U.S.C. 1077, 1078-2, 1079, 1080, 1082, 1083, 1085)

§ 682.509 Due diligence in servicing a loan.

(a) General: The loan servicing process includes responding to borrower inquiries and establishing the terms of repayment.

(b) (1) A lender shall respond on a timely basis to written inquiries and other communications from a borrower and any endorser of a loan.

(2) When a lender learns that a FISLP borrower is no longer enrolled at a participating school on at least a half-time basis the lender shall promptly contact the borrower in order to establish the terms of repayment.

(20 U.S.C. 1077, 1078, 1078-2, 1079, 1082, 1085)

§ 682.510 Repayment of loans.

(a) *Conversion of a loan to repayment status.* (1) For a Federal PLUS Program loan, the repayment period begins on the day the loan is disbursed. The first payment is due within 60 days after the date of disbursement.

(2) Except as provided in paragraphs (a)(3) and (4) of this section, for a FISLP loan the repayment period begins—

(i) For a borrower with a loan for which the applicable interest rate is seven percent per year, not less than nine nor more than twelve consecutive months following the date on which the borrower is no longer enrolled on at least a half-time basis at an eligible school. The length of this grace period is determined by the lender for loans made under the FISLP.

(ii) For a borrower with a loan for which the applicable interest rate is eight or nine percent per year, six consecutive months following the month in which the borrower is no longer enrolled on at least a half-time basis at an eligible school.

(3) For a borrower of a FISLP loan who is a correspondence student, the grace period specified in paragraph (a)(2) of this section begins on the earlier of the date—

(i) The borrower completes the program;

(ii) The borrower falls 60 days behind the due date for submission of a scheduled assignment, according to the schedule required in § 682.603. However, the school may permit one restoration to in-school status for a student who falls 60 days behind the due date for submission of a particular assignment if the student states in writing an intention to continue in the program and an

understanding that the required lessons must be submitted on time; or

(iii) That is 60 days following the latest allowable date established by the school for completing the program in the schedule required under § 682.603.

(4) For a FISLP loan, the repayment period begins prior to the end of the grace period, if the borrower requests and is granted a repayment schedule that so provides. In this event, a borrower may not further utilize the grace period.

(5) The repayment schedule may provide for substantially equal installment payments or for installment payments that increase in amount over the repayment period. If a graduated repayment schedule is established, it may not provide for any single installment that is more than three times greater than any other installment.

(6)(i) Subject to paragraphs (a)(6)(ii) through (iv) of this section, a lender shall allow a borrower at least five years, but not more than ten years, to repay a FISLP or Federal PLUS Program loan, calculated from the beginning of the repayment period. The lender shall, however, require a borrower to fully repay a FISLP loan within 15 years after it is made.

(ii) If the borrower receives an authorized deferment or is granted forbearance, as described in §§ 682.511 and 682.512 respectively, the periods of deferment or forbearance are excluded from determinations of the 5, 10, and 15-year periods.

(iii) If the minimum annual repayment required in paragraph (c) of this section would result in complete repayment of the loan in less than five years, the borrower is not entitled to the full 5-year period.

(iv) Prior to the beginning of the repayment period the borrower may request and be granted by the lender a repayment period of less than five years. At any time, subject to paragraph (a)(6)(iii), and without the lender's consent, the borrower may subsequently have the total repayment period extended to a minimum of five years.

(b) *Prepayment.* The borrower may prepay the whole or any part of a loan at any time without penalty. Unless the borrower requests that the lender credit the prepayment to future installments, the lender shall credit the entire prepayment to unpaid principal.

(c) *Minimum annual payment.* (1)(i) Subject to paragraphs (c)(1)(ii) and (iii) of this section, during each year of the repayment period, a borrower's total payments to all holders of the borrower's GSLP or PLUS Program loans must total at least $600 or the unpaid balance of all loans, including interest, whichever amount is less.

(ii) If the borrower and the lender agree, the amount paid may be less.

(iii) If the borrower and the borrower's spouse have one or more GSLP or PLUS Program loans, their combined annual payment must meet the requirement of paragraph (c)(1)(i) of this section.

(2) The provisions of paragraph (c)(1)(i) and (ii) of this section may not result in an extension of the 10 or 15-year repayment period maximums unless forbearance, as described in § 682.512, has been approved.

(d) *Supplemental repayment schedule.* (1) In the case of a loan made by a school lender, the lender and the borrower may agree on a supplemental repayment schedule, with the prior approval of the Secretary, that would supplement the regular repayment schedule described in paragraph (c) of § 682.509.

(2) The supplemental repayment schedule may be based on other than equal or graduated payments. For example, the supplemental repayment schedule may base the amount of the borrower's payment on the borrower's income.

(3) The borrower may not insist upon the establishment of a supplemental repayment schedule. The lender may not insist upon the establishment of a supplemental repayment schedule unless the lender obtained the borrower's written consent to enter into one at the time the loan was made.

(e) *School refunds.* (1) A lender shall treat a payment of a refund received by the lender from the school as a credit against the amount owed by the borrower on the borrower's loan.

(2) If a lender receives a refund payment from a school on a loan that is no longer held by that lender,—

(i) The lender shall transmit the amount of the refund payment from the school to the holder to whom it assigned the loan, with an explanation of the payment's source; and

(ii) The holder of the loan shall provide prompt written notice to the borrower that the payment has been received.

(20 U.S.C. 1077, 1078, 1078-2, 1079, 1082, 1085)

§ 682.511 Deferment.

(a) *Borrower eligibility.* (1) Except in the case of a loan received by a parent borrower under the PLUS Program on or after August 15, 1983, a borrower is entitled to have periodic installment payments of principal deferred during authorized periods after the beginning of the repayment period.

(2) For a loan made before October 1, 1981, the borrower is also entitled to have periodic installment payments of principal deferred during the six month period (post-deferment grace period) that commences after the completion of each deferment period or combination of such periods.

(3) Interest accrues and is paid by the borrower during the deferment period, and the post-deferment grace period, if applicable, unless, in the case of a FISLP loan, the loan was determined to be eligible for interest benefits under § 682.301 when the loan was made.

(4) In order to receive a deferment, the borrower must request the deferment and provide the lender with all documentation required to establish eligibility for a specific type of deferment.

(5) An authorized deferment period begins on the date the condition entitling the borrower to a deferment first exists, but not more than 60 days before the date the lender receives the request and documentation required under paragraph (a)(4) of this section.

(6) An authorized deferment period ends on the earlier of—

(i) The date the condition establishing the borrower's eligibility for the deferment ends; or

(ii) The date when the condition entitling the borrower to a deferment has continued to exist for the maximum amount of the time allowed for a specific deferment.

(7) A lender may not deny a deferment to which the borrower is entitled, even though the borrower may be delinquent, but not in default, in making required installment payments. The 120 or 180-day period required to establish a default does not run during the deferment and post-deferment grace periods. When the deferment or, if applicable, post-deferment grace period expires, a borrower resumes any delinquent status that existed when the deferment period began.

(8) A borrower whose loan is in default is not eligible for a deferment until the borrower brings the account current with the lender.

(9) The borrower must inform the lender when the condition entitling the borrower to a deferment no longer exists.

(b) *Authorized deferments.* Deferment is authorized during periods when a borrower is engaged in—

(1)(i) Full-time study at a participating school, unless the borrower is not a national of the United States and is pursuing a course of study at a foreign school; or

(ii) Full-time study at a school which meets the definition of an institution of higher education or a vocational school and is operated by an agency of the Federal Government (*e.g.*, the service academies), unless the borrower is not a national of the United States and is pursuing a course of study at a foreign school;

(2) Study under an eligible graduate fellowship program, as described in paragraph (c) of this section;

(3) Up to three years of active duty status in the United States Armed Forces or service as an officer in the Commissioned Corps of the United States Public Health Service;

(4) Up to three years of service under the Peace Corps Act (if the borrower has agreed to serve for a term of at least one year),

(5) Up to three years of service as a full-time volunteer under Title I of the Domestic Volunteer Service Act of 1973 (ACTION programs) (if the borrower has agreed to serve for a term of at least one year);

(6) Up to three years of full-time volunteer service which the Secretary has determined is comparable to service referred to in paragraph (b)(4) and (b)(5) of this section for a tax-exempt organization, as described in paragraph (d) of this section;

(7) Conscientiously seeking, but unable to find full-time employment in the United States over a single period of up to 12 months, as described in paragraph (e) of this section;

(8) Pursuing a rehabilitation training program for disabled individuals, as described in paragraph (f) of this section;

(9) Up to two years of service as an intern, as described in paragraph (g) of this section; or

(10) Up to three years during which the borrower is temporarily totally disabled, as described in paragraph (h) of this section, or during which the borrower is unable to secure employment because the borrower is caring for a spouse who is temporarily totally disabled, as described in paragraph (i) of this section.

(c) *Graduate fellowship deferment.* To qualify for a deferment for study under a graduate fellowship program, a borrower must provide the lender with a statement from an official of the borrower's fellowship program certifying that—

(1) The fellowship program—

(i) Provides sufficient financial support to graduate fellows to allow for full-time study for at least six months;

(ii) Requires a written statement from each applicant explaining the applicant's objectives before the award of that financial support; and

(iii) Requires a graduate fellow to submit periodic reports, projects, or other evidence of the fellow's progress; and

(2) The borrower—

(i) Holds at least a baccalaureate degree conferred by an institution of higher education;

(ii) Is engaged in full-time study, which may be independent of an educational or cultural institution, in an academic or professional subject area for which the borrower has shown an interest and ability; and

(iii) Has been recommended by an institution of higher education for acceptance into the graduate fellowship program.

(d) *Full-time volunteer service for a tax-exempt organization deferment.*—To qualify for a deferment for full-time volunteer service, for a tax-exempt organization, comparable to volunteer service in the Peace Corps or full-time volunteer service in a program administered by the ACTION agency, a borrower must provide the lender with a statement from an official of the borrower's volunteer program certifying that—

(1) The borrower serves in an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

(2) The borrower provides service to low-income persons and their communities to assist them in eliminating poverty and poverty-related human, social, and environmental conditions;

(3) The borrower's compensation (including a subsistence allowance) does not exceed the compensation received by a full-time volunteer in the Peace Corps or in a program administered by the ACTION agency;

(4) The borrower, as part of his or her duties, does not give religious instruction, conduct worship services, engage in religious proselytizing, or engage in fundraising to support religious activities; and

(5) The borrower has agreed to serve on a full-time basis for a term of at least one year.

(e) *Unemployment deferment.* (1) To qualify for an unemployment deferment, a borrower must provide the lender with a written request for the deferment. To continue the deferment for more than three months, the borrower must provide an additional request before the end of each three month period. Each request must be signed by the borrower and dated, and must contain—

(i) A statement from the borrower describing the borrower's conscientious search for full-time employment, including for at least three attempts to secure employment during that three-month period—

(A) The name of the firm contacted;

(B) The name of the person contacted; and

(C) The firm's address and phone number.

(ii) The borrower's latest permanent home address and, if applicable, the borrower's latest temporary address;

(iii) Certification from the borrower that the borrower has registered with a public or private employment agency, if one is accessible, specifying its name and address and the date of registration therewith; and

(iv) The borrower's agreement to notify the lender promptly when full-time employment is obtained.

(2) A borrower may qualify for an unemployment deferment whether or not the borrower has been previously employed.

(3) For purposes of this section, full-time employment involves at least 30 hours of work per week and is expected to last at least three months.

(4) An unemployment deferment is not justified if the borrower has sought employment only in kinds of positions or at salary and responsibility levels for which the borrower feels qualified by virtue of education or previous experience.

(f) *Rehabilitation training program deferment.* To qualify for a rehabilitation training deferment, the borrower must be receiving, or be scheduled to receive, services under a program designed to rehabilitate disabled individuals, and must provide the lender with the following documentation:

(1) A certification from the rehabilitation agency that the borrower is either receiving or scheduled to receive rehabilitation training services from the agency.

(2) A certification from the rehabilitation agency that the rehabilitation program—

(i) Is licensed, approved, certified, or otherwise recognized as providing rehabilitation training to disabled individuals by—

(A) A State agency with responsibility for vocational rehabilitation programs;

(B) A State agency with responsibility for drug abuse treatment programs;

(C) A State agency with responsibility for mental health services programs;

(D) A State agency with responsibility for alcohol abuse treatment programs; or

(E) The Veterans Administration; and

(ii) Provides or will provide the borrower with rehabilitation services under a written plan that—

(A) Is individualized to meet the borrower's needs;

(B) Specifies the date on which the services to the borrower are expected to end; and

(C) Is structured in a way that requires a substantial commitment by the borrower to his or her rehabilitation. The Secretary considers a substantial commitment by the borrower to be a commitment of time and effort that would normally prevent an individual from engaging in full-time employment either because of the number of hours that must be devoted to rehabilitation or because of the nature of the rehabilitation. For the purposes of this paragraph, full-time employment involves at least 30 hours of work per week.

(g) *Internship deferment.* (1) An eligible internship program is a supervised training program that is required in order for the borrower to begin professional practice or service, *e.g.*, medical residency.

(2) An eligible internship program is a program—

(i) That requires the borrower to hold at least a bachelor's degree before beginning the internship program; and

(ii) That a State licensing agency requires completion of before certifying the individual for professional practice or service.

(3) To qualify for an internship deferment, the borrower must provide to the lender the following certifications:

(i) A statement from an official of the appropriate State licensing agency that the internship program meets the provisions of paragraph (g)(2) of this section.

(ii) A statement from the organization with which the borrower is undertaking the internship program certifying—

(A) The acceptance of the borrower into its internship program; and

(B) The anticipated dates on which the borrower will begin and complete the program.

(h) *Temporary total disability deferment.* (1) To qualify for a temporary total disability deferment, a borrower must give the lender a certification from a licensed doctor of medicine or osteopathy, stating that the borrower is temporarily totally disabled.

(2) For purposes of this section, a borrower who is "temporarily totally disabled" is one who, by reason of injury or illness, cannot be expected to be able to attend school or to be gainfully employed during an extended period of time needed to recover from the injury or illness.

(i) *Spouse's temporary total disability deferment.* (1) To qualify for a deferment given to a borrower whose spouse is temporarily totally disabled, a borrower must give the lender—

(i) A certification of a licensed doctor of medicine or osteopathy, stating that the borrower's spouse is temporarily totally disabled; and

(ii) A statement from the borrower certifying that the borrower is unable to secure employment because the borrower is providing continuous nursing or similar services for the borrower's spouse.

(2) For the purposes of this section, a spouse who is "temporarily totally disabled" is one who, by reason of injury or illness, cannot be expected to be gainfully employed during an extended period of time needed to recover from the injury or illness, and who, during that special period, requires continuous nursing or similar services.

(20 U.S.C. 1077, 1078, 1078–2, 1082, 1085)

§ 682.512 Forbearance.

(a) General: (1) The Secretary encourages a lender to grant forbearance for the benefit of a borrower in order to prevent the borrower from defaulting on the borrower's repayment obligation. "Forbearance" means permitting the temporary cessation of payments, allowing an extension of time for making payments, or accepting smaller payments than were previously scheduled.

(2) A lender may grant forbearance of payments of principal and interest under paragraph (b) of this section whenever—

(i) Poor health or other personal problems affect the ability of the borrower to make scheduled payments; or

(ii) The borrower's payments of principal are deferred under § 682.511 and the Secretary does not pay interest benefits on behalf of the borrower under § 682.301.

(3) If two borrowers are liable for repayment of a Federal PLUS Program loan as co-makers, the lender shall grant forbearance only when the ability of both borrowers to make scheduled payments has been impaired.

(4) If payments of interest are forborne, they may be capitalized as provided in § 682.202(b).

(b) A lender may grant forbearance on terms that are consistent with the minimum annual payment requirement and the 10- and 15-year limitations on length of repayment if the lender and borrower agree to the new terms, or, in the case of forbearance of interest during a period of deferment, if the lender informs the borrower at the time the deferment is granted that interest payments are to be forborne.

(c) A lender may grant forbearance for a period of up to one year at a time on terms that are inconsistent with the minimum annual repayment and the 10- and 15-year limitations on length of repayment if—

(1) The lender reasonably believes that the borrower intends to repay the loan but is currently unable to make payments in accordance with the terms of the loan note, and the lender states the basis for its belief in writing and maintains that statement in its loan file on that borrower;

(2) Both the borrower and an authorized official of the lender agree to the forbearance; and

(3) Where the forbearance involves the postponement of all payments, the lender contacts the borrower at least every three months during the period of forbearance in order to remind the borrower of the outstanding obligation to repay.

(d) The lender shall maintain evidence in the borrower's loan file that the forbearance has been agreed to.

(20 U.S.C. 1078–2, 1080, 1082)

§ 682.513 Due diligence in collecting a loan.

(a) *General.* (1) lender shall exercise due diligence in the collection of a loan with respect to both a borrower and an endorser. In order to exercise due diligence, a lender shall implement the procedures described in this section when a borrower fails to make an installment payment when due.

(2) If two borrowers are liable for repayment of a Federal PLUS Program loan as co-makers, the lender shall follow these procedures with respect to both borrowers.

(3) For purposes of this section, the borrower's delinquency begins on the day after the due date of an installment payment not paid when due, except that if the borrower entered the repayment period without the lender's knowledge, the delinquency begins 30 days after the day the lender discovers that the borrower has entered the repayment period.

(b) *Initial delinquency.* When a borrower is delinquent in making a payment, the lender shall remind the borrower within 15 working days of the date the payment was due by means of a letter, notice, telephone call, or personal contact. If payments do not begin or resume, the lender shall attempt to contact the borrower at least three more times at regular intervals during the remainder of the four-month

period that started on the due date of the delinquent payment.

(c) *Skip-tracing assistance.* (1) Whenever a lender does not know the borrower's current address, the lender shall promptly attempt to locate the borrower through normal commercial collection techniques, including contacting all individuals and entities named in the borrower's loan application. If these efforts are unsuccessful, the lender shall promptly attempt to learn the borrower's current address through use of the Department of Education's skip-tracing assistance.

(2) If the lender does not know the borrower's address when a borrower is first delinquent in making a payment, but subsequently obtains the borrower's address prior to the date on which the loan goes into default, the lender shall attempt to contact the borrower in accordance with paragraph (b) of this section, with the first contact occurring within 15 days of the date the lender obtained knowledge of the borrower's address, and shall attempt to contact the borrower at least once during each succeeding 30-day period until default.

(d) *Preclaims assistance.* When the borrower is 60 days delinquent in making a payment, the lender shall request preclaim assistance from the Department of Education. This preclaim assistance consists of sending a series of letters to the borrower, urging the borrower to contact the lender and begin or resume payments.

(e) *Final demand letter.* A lender shall send a final demand letter to the borrower at least 30 days before the lender files a default claim. The lender shall allow the borrower at least 30 days to respond to the final demand letter. However, a lender need not send a final demand letter to a borrower whose address is unknown.

(f) *Litigation.* (1) If the borrower's loan is in default and the lender determines that the borrower has the ability to repay the loan, the lender may, prior to the deadline for filing a default claim, bring suit against the borrower to recover the amount of the unpaid principal and interest together with reasonable attorney's fees, in accordance with the procedures set forth in this paragraph.

(2) The lender must first notify the borrower that, unless the borrower makes payments sufficient to bring the account current, the lender will seek a judgment under which the borrower will be liable for payment of reasonable attorneys' fees and court costs in addition to the unpaid principal and interest. The lender shall mail the notice to the borrower by certified mail, return receipt requested.

(3) The lender may bring suit if the borrower does not meet the terms of the lender's demand for payment as described in paragraph (f)(2) of this section within ten days following the date of delivery of the notice to the borrower indicated on the receipt.

(4) A lender may first apply the proceeds of any judgment against its reasonable attorneys' fees and court costs, whether or not the judgment provides for these fees and costs.

(20 U.S.C. 1078–2, 1079, 1080, 1081, 1082, 1085)

§ 682.514 Assignment of loan.

(a) *General.* A FISLP or Federal PLUS Program note may not be assigned except to another eligible lender. In this section, "seller" means any kind of assignor, "buyer" means any kind of assignee, and "assignment" means any kind of transfer, including assignment as security.

(b) *Procedure.* (1) A note assigned from one lender to another shall be made subject to a blanket endorsement together with other notes being assigned or shall individually bear effective words of assignment. Either the blanket endorsement or the note shall be signed and dated by an authorized official of the seller.

(2) The buyer shall—

(i) Notify the Secretary of the assignment if the right to receive special allowance has been assigned; and

(ii) Ensure that the borrower is notified promptly if the assignment results in the borrower being required to make installment payments, or to direct other matters connected with the loan, to a party other than the party with whom the borrower dealt before the assignment. The buyer shall include in the notice to the borrower a clear statement of all the borrower's rights and responsibilities which arise from the assignment of the loan, including a statement regarding the consequences of making payments to the seller or any prior holder of the loan, subsequent to receipt of the notice.

(c) *Risk assumed by the buyer.* (1) Upon acquiring a note, a new holder assumes responsibility for the consequences of any previous violation of applicable status or regulations or the terms of the note. Neither a FISLP note nor a Federal PLUS Program note is a negotiable instrument, and a subsequent holder of such a note is not a holder in due course. If the borrower has a valid legal defense that could be asserted against the original holder, the borrower can also assert the defense against the new holder. If the new holder files a default claim on a loan, the Secretary denies the default claim if there was a legal defect affecting the initial validity or guarantee eligibility of the loan and to the extent of the borrower's legal defenses. When a new holder files a claim on a loan, it shall provide the Secretary with the same documentation that would be required of the original lender.

(2) Special additional rules for assignment of loans made or originated by a school: The buyer of a loan is not entitled to rely on statements made by a school that made or originated the loan. In addition, the Secretary considers any unpaid tuition refund that was due to the student under § 682.607, before the first assignment of a loan that was made or originated by a school, as having been paid to the subsequent holder on the borrower's behalf.

(d) *The Secretary's approval.* The approval of the Secretary is required prior to the assignment of a note to an eligible lender that has not entered into a contract of insurance with the Secretary under § 682.503.

(e) *Trustee responsibility.* A lender to whom a loan is assigned in its capacity as a trustee assumes responsibility for complying with all applicable statutory and regulatory requirements imposed on any other holder of a loan.

(f) *Warranty.* (1) Nothing in this section precludes the buyer of a loan from obtaining a warranty from the seller covering certain future reductions by the Secretary in computing the amount of guaranteed loss, if any, on a claim filed on the loan.

(2) The warranty may only cover reductions which are attributable to an act or failure to act of the seller or other previous holder.

(3) The warranty may not cover matters the buyer is responsible for under the requirements in this part.

(20 U.S.C. 1078–2, 1079, 1080, 1082)

§ 682.515 Consequeces of failure of a borrower or student to establish eligibility.

(a) The lender shall immediately send a final demand letter to the borrower, as required by § 682.513(e), when it learns that the borrower or, if applicable, the student on whose behalf a parent has borrowed—

(1) Did not qualify for all or a portion of a loan made under this part; or

(2) Has received a GSLP loan subject to payment of Federal interest benefits as provided under § 682.301, but is in fact ineligible for such interest benefits.

(b) The lender shall neither bill the Secretary nor be entitled to interest benefits on a loan after it learns that one of the conditions described in paragraph (a) of this section exists with respect to the loan.

(c) In the final demand letter, transmitted under paragraph (a) of this section, the lender shall demand that, within 30 days, the borrower repay in full the principal amount of the ineligible portion of the loan, accrued interest thereon, and all interest benefits paid by the Secretary thereon.

(d) If the borrower repays the amounts described in paragraph (c) of this section within the 30-day period, the lender shall, on its next quarterly interest billing submitted under § 682.304, refund to the Secretary the interest benefits repaid by the borrower, and all other interest benefits previously billed to the Secretary on the ineligible portion of the loan.

(e) If the borrower repays to the lender the principal amount of the ineligible portion of the loan, the lender shall treat that payment as a prepayment on the loan.

(f) If a borrower fails to comply with the terms of a final demand letter described in paragraph (a) of this section, the loan shall be considered in default, and the lender shall file a default claim thereon with the Secretary for the entire unpaid balance of principal and accrued interest within the time specified in § 682.518(e)(1).

(20 U.S.C. 1077, 1078, 1078–2, 1082)

§ 682.516 Special conditions for filing a claim.

(a) A lender shall cease collection activity on a loan and file a claim with the Secretary within the time specified in § 682.518(e)(2), when—

(1) The lender learns that the school, in which the student on whose behalf the loan was made enrolled, terminated its teaching activities involving that student during the academic period covered by the loan; or

(2) The Secretary directs that the claim be filed.

(b) A lender may not, as a result of a claim filed with the Secretary under this section, make a report to any credit bureau or other third party concerning the borrower's failure to repay the loan.

(20 U.S.C. 1078–2, 1080, 1082)

§ 682.517 Death, disability, and bankruptcy.

(a) *Death.* (1) If an individual borrower dies, the borrower's obligation to make any further payments of principal and interest on the loan is cancelled. However, if a Federal PLUS Program loan was obtained by two parents as co-makers, and only one of the parents dies, the surviving parent remains obligated to repay the loan.

(2) The lender may determine that a borrower has died on the basis of a death certificate or other proof of death that is acceptable under applicable State law. If a death certificate or other acceptable proof of death is not available, the borrower's obligation on the loan is cancelled only upon a determination by the Secretary on the basis of other evidence that the Secretary finds conclusive.

(3) Once the lender has determined that the borrower has died, the lender may not attempt to collect on the loan from the borrower's estate or from any endorser.

(4) The lender shall return to the sender any payments received from the estate or paid on behalf of the borrower after the date of the borrower's death.

(b) *Total and permanent disability.* (1) If the lender determines that an individual borrower is totally and permanently disabled, the borrower's obligation to make any further payments of principal and interest on a loan is cancelled. However, if a Federal PLUS Program loan was obtained by two parent borrowers as co-makers, and only one of the borrowers becomes totally and permanently disabled, the other borrower remains obligated to repay the loan. A borrower is not considered totally and permanently disabled on the basis of a condition that existed before he or she applied for the loan, unless the borrower's condition has substantially deteriorated since he or she submitted the loan application.

(2) After being notified by the borrower or the borrower's representative that the borrower claims to be totally and permanently disabled, the lender shall promptly request that the borrower or the borrower's representative obtain a certification from a physician who is a doctor of medicine or osteopathy and legally authorized to practice, on a form provided by the Secretary, that the borrower is totally and permanently disabled. The lender shall continue collection until it receives the certification or receives a letter from a physician stating that the certification has been requested and that additional time is needed to determine if the borrower is totally and permanently disabled. After receiving the physician's certification or letter, the lender may not attempt to collect from the borrower or any endorser.

(3) After receiving the physician's certification described in paragraph (b)(2) of this section, the lender shall return any payments that it received from or on behalf of the borrower after the date the borrower or the borrower's representative notified the lender of the borrower's claim described in paragraph (b)(2) of this section.

(4) If the lender determines that a loan owned by a borrower who claims to be totally and permanently disabled is not eligible for cancellation for that reason, or if the lender has not received the physician's certification, described in paragraph (b)(2) of this section, within 60 days of the receipt of the physician's letter described in paragraph (b)(2) of this section, the lender shall resume collection and shall be deemed to have exercised forbearance of payment of both principal and interest from the date the lender received the physician's letter described in paragraph (b)(2) of this section, and any interest payments forborne may be capitalized in accordance with § 682.202.

(c) *Bankruptcy.* (1) If an individual borrower's repayment obligation on a loan is discharged in bankruptcy, the Secretary will assume the borrower's liability for unpaid principal and interest on the loan. However, if a Federal PLUS Program loan was obtained by two parent borrowers as co-makers and only one of the borrowers has his or her loan obligation discharged in bankruptcy, the other borrower remains obligated to repay the loan and the Secretary does not assume liability for unpaid principal and interest.

(2) The lender shall determine that a borrower has filed a bankruptcy petition on the basis of a notice of the first meeting of creditors received from the bankruptcy court.

(3) Once a lender determines that a borrower has filed a bankruptcy petition, the lender may not attempt to collect on the loan and shall file a bankruptcy claim with the Secretary.

(4) If the loan obligation is not ultimately discharged in the bankruptcy proceeding, the lender is not required to repurchase the loan.

(20 U.S.C. 1078–2, 1082, 1087)

§ 682.518 Procedures for filing a claim.

(a) *Filing a claim application.* (1) A lender may file a claim against the Secretary's guarantee on a FISLP or Federal PLUS Program loan for any of the following reasons:

(i) The loan is in default, as defined in § 682.200.

(ii) Any of the conditions exist for filing a claim without collection efforts, as set forth in § 682.515 or § 682.516.

(iii) The borrower has died.

(iv) The borrower is totally and permanently disabled.

(v) The borrower has filed a bankruptcy petition.

(2) If a PLUS Program loan was obtained by two eligible parents as co-makers, the reason for filing a claim thereon must hold true for both parents.

(3) A lender shall file a claim against the Secretary's guarantee on a form provided by the Secretary. The lender shall attach to the claim all documents required by the Secretary. If the lender fails to submit all required documents, the Secretary denies the claim.

(b) *Documentation required for all claims.* The Secretary requires the following documentation for all claims:

(1) The original promissory note.

(2) The loan application.

(3) The repayment instrument, in the case of a FISLP loan.

(4) A payment history, as described in § 682.522(a)(2)(ix), if any payments have been made.

(5) A collection history, as described in § 682.522(a)(2)(x).

(6) A copy of the final demand letter, if required by § 682.513(e).

(7) The original or a copy of all correspondence addressed to, from, or on behalf of the borrower that is relevant to the loan owned by the borrower, whether that correspondence involved the original lender, a subsequent holder, or a servicing agent.

(8) If applicable, evidence of the lender's requests to the Department of Education for skip-tracing assistance under § 682.513(c), and for preclaims assistance under § 682.513(d).

(9) Any additional documentation that the Secretary deems relevant to a claim.

(c) *Assignment of note.* The Secretary's payment of a claim is contingent upon receipt from the lender of an assignment to the United States of America of all rights, title, and interest of the lender in the note underlying the claim. The lender shall also agree to reimburse the Secretary for any overpayments of interest benefits or special allowance that the Secretary may have made respecting the loan.

(d) *Additional documentation required for specific categories of claims.*—(1) *Default claims.* (i) In the case of a claim filed on a loan made by a school lender, whether or not the claim is filed by the school, the lender shall file with its claim a statement from the school indicating whether the borrower enrolled on at least a half-time basis at the school for the academic period for which the loan was intended. If the student traveled to the school but decided not to enroll, the school shall state the amount of the loan that was reasonably necessary for the student's travel from the student's residence to the school.

(ii) If the lender files a default claim on a loan and subsequently receives a notice of the first meeting of creditors in the proceeding of the borrower in bankruptcy, the lender shall promptly forward that notice to the Department of Education. Under these circumstances the lender shall not file a proof of claim with the bankruptcy court.

(2) *Death claims.* The lender shall submit with a death claim those documents that formed the basis for its determination of death.

(3) *Disability claims.* The lender shall submit with a disability claim a copy of the certification of disability described in § 682.516(b)(2) of this part.

(4) *Bankruptcy claims.* In the case of a bankruptcy claim, in addition to the documentation required for all claims, the lender shall submit—

(i) Evidence that a bankruptcy petition has been filed, and all pertinent documents sent to or received from the bankruptcy court by the lender; and

(ii) A statement of any facts of which the lender is aware that may form the basis for an objection or exception to the discharge of the borrower's loan obligation in bankruptcy, and all documents supporting those facts.

(e) *Claim filing deadlines.* As a condition for obtaining payment, a lender shall comply with the following requirements for filing default, death, disability, and bankruptcy claims:

(1) *Default claims.* Unless the lender has already filed suit against the borrower in accordance with § 682.513(f), it must file a default claim on a loan with the Secretary within 90 days after default. For a claim filed pursuant to § 682.515, the lender shall file a claim within 90 days following transmission of the final demand letter sent pursuant to § 682.515(c), if the borrower failed to comply with the terms thereof within 30 days of such transmission.

(2) *Special condition claims.* In the case of a special condition claim filed pursuant to § 682.516, the lender must file a claim with the Secretary within 90 days of the date the lender determines that the conditions set forth in § 682.516(a)(1) exist, or the date the Secretary directs that the claim be filed pursuant to § 682.516(a)(2).

(3) *Death and disability claims.* A lender must file a death or disability claim with the Secretary within 60 days after the lender determines that a borrower has died or is totally and permanently disabled, in accordance with the procedures in § 682.517.

(4) *Bankruptcy claims.* A lender must file a bankruptcy claim with the Secretary within 30 days after the lender receives notice of the first meeting of creditors in a borrower's bankruptcy proceeding.

(20 U.S.C. 1078–2, 1080, 1082, 1087)

§ 682.519 Determination of amount of loss on a claim.

(a)(1) *Default claims.* The amount of loss to be paid on a default claim depends upon the date the Secretary received the application for a guarantee commitment on the loan. If the application was received—

(i) Prior to July 1, 1972, or between August 19, 1972, and February 28, 1973, the amount of loss to be paid on the claim is equal to the unpaid balance of the original principal loan amount disbursed; or

(ii) Between July 1 and August 18, 1972, or after February 28, 1973, the amount of the loss to be paid on the claim is equal to the unpaid balance of the principal and interest. The unpaid principal amount of the loan may include capitalized interest to the extent authorized by § 682.202.

(2) *Death and total and permanent disability claims.* The amount of loss to be paid on a death or disability claim depends upon the date the loan was disbursed. If the loan was disbursed—

(i) Prior to December 15, 1968, the amount of loss to be paid on the claim is equal to the unpaid balance of the original principal loan amount disbursed; or

(ii) After December 14, 1968, the amount of loss to be paid is equal to the unpaid balance of the principal and interest that accrues before the determination that the borrower is either deceased or totally and permanently disabled. The unpaid principal amount may include capitalized interest to the extent authorized by § 682.202.

(3) *Bankruptcy claims.* The amount of loss to be paid on a bankruptcy claim is equal to the balance of the principal and interest. The unpaid principal amount may include capitalized interest to the extent authorized in § 682.202.

(b) Payment of additional interest: When the guarantee covers unpaid interest, the payment of an approved claim covers the unpaid interest that accrues during the following periods:

(1) During the period before the claim is filed, not to exceed the period provided for in § 682.518(e) for filing the claim.

(2) During a period not to exceed 30 days following the return of the claim to the lender by the Secretary for additional documentation necessary for the claim to be approved by the Secretary.

(3) During the period required by the Secretary to approve the claim and to authorize payment.

(c) Special rules for a loan acquired by assignment: Except as provided in

paragraph (d)(2) of this section, if a claim is filed by a lender that obtained a loan by assignment, that lender is not entitled to any payment under this section greater than that to which a previous holder would have been entitled. For example, the Secretary deducts from the claim any amounts that are attributable to payments made by the borrower to a prior holder of the loan before the borrower received proper notice of the assignment of the loan.

(d) Special rules for loans made by a school lender: (1) If the loan for which a claim is filed was made by a school and the claim is filed by that school, the Secretary deducts from the claim—

(i) An amount equal to any unpaid refund that the school owes the student to whom or on whose behalf the loan was made under § 682.607; or

(ii) An amount which bears the same ratio to the total amount of the claim as the amount of educational services that the student was unable to complete, because the school terminated its teaching activities during the period for which the loan was obtained, bears to the total educational services which the student would have received, during the period for which the loan was obtained, had the school not terminated its teaching activity.

(2) If the loan for which a claim is filed was originally made by a school, but the claim is filed by another lender that obtained the note by assignment, the Secretary deducts from the claim the amount determined—

(i) Under paragraph (d)(1)(i) of this section that was due the student prior to the assignment of the loan; or

(ii) Under paragraph (d)(1)(ii) of this section.

(e) Special rule for loans originated by a school: A loan that is originated by a school is treated, for purposes of subsection (d) of this section, as if it were a loan made and still held by the school.

(20 U.S.C. 1078-2, 1080, 1082)

§ 682.520 Factors affecting coverage of a loan under the loan guarantee.

(a)(1) In determining whether to approve for payment a claim against the Secretary's guarantee, the Secretary considers matters affecting the enforceability of the loan obligation, and whether the loan was made and administered in accordance with the Act and applicable regulations.

(2) The Secretary deducts from a claim any amount that is not a legally enforceable obligation of the borrower, except to the extent that the defense of infancy applies.

(3) Except as provided in § 682.521 the Secretary does not pay a claim unless—

(i) All holders of the loan have complied with the requirements of this part, including, but not limited to, those concerning due diligence in the making, servicing, and collecting of a loan;

(ii) The current holder has complied with the deadlines for filing a claim established in § 682.518(e); and

(iii) The current holder complies with the requirements for submitting documents with a claim as established in § 682.518 (b) and (d).

(b) Except as provided in § 682.521, the Secretary does not pay a death, disability, or bankruptcy claim for a loan after a default claim for that loan has been disapproved by the Secretary.

(c) The Secretary's determination of the amount of loss payable on a default claim under this section, once final, is conclusive and binding on the lender that filed the claim.

(Note.—A determination of the Secretary under this section is subject to judicial review under 5 U.S.C. 706 and 41 U.S.C. 321-322)

(20 U.S.C. 1078-2, 1079, 1080, 1082)

§ 682.521 Procedures for receipt or retention of payments where the lender has violated program requirements for FISLP loans.

(a) The Secretary may waive the right to recover or refuse to make an interest benefits, special allowance or claim payment, or may permit a lender to cure certain defects in a specified manner when, in the Secretary's judgment, the best interests of the United States so require.

(b) In order for a lender to receive payment on a default claim or to resume eligibility to receive interest benefits and special allowance on a loan as to which the lender has committed a violation of the requirements of this part regarding due diligence in collection or timely filing of claims, it must meet the conditions described in Bulletin L-77a, set forth as Appendix C to this Part.

(20 U.S.C. 1078-2, 1080, 1082)

§ 682.522 Records, reports, and inspection requirements for program lenders.

(a)(1) A lender shall keep complete and accurate records of each loan that it holds. The records shall be organized in such a way as to permit ready identification of the current status of each loan.

(2) The lender shall keep—

(i) The loan application;

(ii) The original promissory note, including the repayment instruments, until the loan is fully repaid, after which a copy is required;

(iii) The repayment schedule;

(iv) A record of each disbursement of loan proceeds;

(v) Notices of changes in a borrower's address and status as at least a half-time student;

(vi) Evidence of the borrower's eligibility for a deferment;

(vii) The documents required for the exercise of forbearance;

(viii) Documentation of the assignment of the loan;

(ix) A payment history showing the date and amount of each payment received from or on behalf of the borrower, and the amount of each payment attributable to principal and interest;

(x) A collection history, showing the date and subject of each communication between the lender and the borrower or endorser relating to collection of a delinquent loan and each effort to locate a borrower whose address was unknown at any time; and

(xi) Any additional records that are necessary to document the validity of a claim against the guarantee or the accuracy of reports submitted under this part.

(3)(i) A lender shall retain the records required for each loan for not less than five years following the date the loan is repaid in full by the borrower or the lender is reimbursed on a claim. However, in particular cases the Secretary may require the retention of records beyond this minimum period.

(ii) The lender may store records on microfilm or computer format. However, the holder of the promissory note shall retain the original note and repayment instrument until the loan is fully repaid. At that time the lender shall return the original note and repayment instrument to the borrower, and retain copies for the prescribed period.

(b) Reports: A lender shall submit reports to the Secretary at the time and in the manner that the Secretary may reasonably require.

(c) Inspections: Upon request, a lender or its agent shall afford the Secretary, the Comptroller General of the United States, and any of their authorized representatives, access to its records in order to verify the accuracy of its reports or the lender's compliance with the Act and applicable regulations.

(20 U.S.C. 1077, 1078, 1078-2, 1079, 1080, 1082)

Subpart F—Requirements, Standards, and Payments for Participating Schools

§ 682.600 Agreement between an eligible school and the Secretary for participation in the Guaranteed Student Loan and PLUS Programs.

(a) *General.* Participation of a school in the GSLP and the PLUS Program means that the school's students are eligible to receive GSLP and PLUS Program loans. To participate in the GSLP and the PLUS Program under either the FISLP, the Federal PLUS Program or a guarantee agency program, a school must—

(1) Establish its basic eligibility as an institution of higher education or a vocational school as defined in 34 CFR Part 668 through certification by the Division of Eligibility and Agency Evaluation, Office of Postsecondary Education, Department of Education; and

(2) Enter into a written program participation agreement with the Secretary that is signed by an appropriate official of the school on a form approved by the Secretary.

(b) *Program participation agreement.* The school, in this agreement, promises to comply with the applicable provisions of—

(1) The Act and the regulations in this part; and

(2) The Student Assistance General Provisions, 34 CFR Part 668.

(c) *Appeal of denial or limitations.* (1) If the Secretary denies a request for an agreement or approves only limited participation in the GSLP or the PLUS Program by a school—

(i) The reason for the decision is included in the Secretary's response to the request; and

(ii) The Secretary provides an opportunity for the school to meet with a designated Department official to appeal that decision.

(2) The Secretary does not, however, grant an opportunity for appeal, or give reasons for denying the participation or approving only the limited participation of a school, if the school submits its request within six months of a previous denial or limited approval.

(d) *Foreign schools.* A foreign school shall be required to comply with the provisions of these regulations to the extent determined by the Secretary.

(20 U.S.C. 1078-2, 1082, 1094)

§ 682.601 Agreement between the Secretary and a school that makes or originates loans.

(a) *General.* A school must have an agreement with the Secretary in order to make or originate loans under either the GSLP or the PLUS Program.

(b) *Contents of the agreement.* An agreement to allow a school either to make or to originate loans contains the following terms:

(1) The school will not make or originate loans which would be outstanding to more than 50 percent of its undergraduates in attendance at that school on at least a half-time basis, unless the Secretary waives this rule pursuant to paragraph (d) of this section.

(2) The school will inform any undergraduate student, who has not previously obtained a loan that was made or originated by the school and who seeks to obtain such a loan, that he or she must first make a good faith effort to obtain a loan from a commercial lender.

(3)(i) The school will not make or originate a loan for an academic period to a student described in paragraph (b)(2) of this section until the student provides the school with evidence under paragraph (c) of this section of denial of a loan by a commercial lender for the same academic period.

(ii) In determining whether a school has complied with the requirement set forth in paragraph (b)(3)(i) of this section, the Secretary may take into consideration any patterns reflected by the letters of denial or the students' sworn statements referred to in paragraph (c) of this section that indicate that the school has not given sufficient counseling to students to first seek loans from a commercial lender. An example of an unacceptable pattern would be if all denials of loans to a school's students were made by a small number of lenders.

(4) The school will not make originate a loan for an academic year in excess of the lesser of $2,500 or half the estimated cost of attendance to a student who—

(i) Is in the first academic year of study as undergraduate; and

(ii) Was not previously enrolled in an undergraduate program.

(5) Loans that the school makes or originates shall be disbursed in multiple installments in accordance with the disbursement requirements in § 682.506(b)(1)(ii) if—

(i) The loan amount exceeds $1,500 for the academic year;

(ii) The borrower is in the first academic year of study as an undergraduate; and

(iii) The borrower was not previously enrolled in an undergraduate program.

(c) *Establishing a loan denial by a commercial lender.* (1) To verify that a borrower has sought and been denied a loan from a commercial lender, pursuant to paragraph (b)(3) of this section, the school shall obtain from the borrower—

(i) A written statement from a commercial lender indicating that the lender denied the borrower a loan for that academic period; or

(ii) The borrower's sworn statement, indicating both the refusal of a loan by a commercial lender and the lender's refusal to provide a written statement of the denial.

(2) If the borrower's statement is used to establish the denial of a loan, the statement must include—

(i) The name of the lender that denied the loan;

(ii) The approximate date on which the loan was denied;

(iii) The name of the official who communicated the denial to the borrower; and

(iv) The borrower's signature.

(3) If the school determines that the denial of a loan to an eligible borrower by a commercial lender is based upon the lender's refusal to lend more than a part of the amount requested by the borrower, the school may either—

(i) Make or originate a loan to that borrower for the entire amount; or

(ii) Supplement the loan that the commercial lender is willing to make with a second loan to the borrower.

(d) *Waiver of the 50 percent lending limit.* A school may request the Secretary to waive the 50 percent lending limit described in paragraph (b)(1) of this section if adherence to that limit would create a substantial hardship to the school's present or prospective students. The Secretary determines whether to grant the school a waiver after considering—

(1) The extent to which the school provides, and expects to continue providing, educational opportunities to economically disadvantaged students, as measured by the percentage of those students enrolled at the school who—

(i) Are in families that fall within the "low-income family" category used by the Bureau of the Census;

(ii) Would not be able to enroll, or continue their enrollment, at that school without GSLP or PLUS Program loans made or originated by the school; and

(iii) Would not be able to obtain a comparable education at another school;

(2) The extent to which the school offers academic programs that—

(i) Are unique in the geographical area the school serves; and

(ii) Would not be available to some students if the school adhered to the 50 percent lending limit; and

(3) The quality of the school's—

(i) Management of student financial assistance programs; and

(ii) Conformance with sound business practices.

(20 U.S.C. 1075, 1078, 1078-2, 1082, 1083)

§ 682.602 Providing employment data to prospective students.

(a) In addition to the specific requirements of Subpart C (Student Consumer Information Services) of 34 CFR Part 668, a school that offers programs or courses of study designed to prepare students for a particular vocational, trade, or career field—

(1) Shall provide a prospective student in that program or course with a written statement regarding the percentage of previously enrolled students who entered positions of employment directly related to their course of study at the school and data regarding the average starting salaries of those students; or

(2) Shall provide the prospective student with the most recent comparable regional or national statistical student employment data in lieu of the information about the school's own students if—

(i) After a reasonable effort the school cannot obtain meaningful data on the employment of its own students; or

(ii) The data the school possesses regarding its own students is more than three years old and cannot, after a reasonable effort, be updated.

(b) To the extent that information is available, the school shall provide a prospective student with information regarding the long-range prospects for employment in the particular vocational, trade, or career field that the student intends to prepare for at the school.

(20 U.S.C. 1078-2, 1082, 1085, 1094)

§ 682.603 Correspondence school schedule requirements.

(a) A school offering a course of study by correspondence shall establish a schedule for submission of lessons by its students, which must be given to a prospective student prior to that student's enrollment.

(b) The school shall include in its schedule—

(1) The number of lessons in the course;

(2) The intervals at which lessons are to be submitted;

(3) The date by which the course is to be completed; and

(4) The period of time within which any resident training must be completed.

(c) The school's schedule shall conform to the requirements set forth in paragraph (b) of the definition of "vocational school" in 34 CFR 668.6.

(20 U.S.C. 1078-2, 1082)

§ 682.604 Certification by a participating school in connection with a loan application.

(a) A school shall accurately and completely fill out the portion of a loan application to be completed by the school. Except as provided in Part 668 Subpart E, a school may rely in good faith upon statements made on the application by the student.

(b) The information to be certified by the school pertains to—

(1) The borrower's eligibility for a loan as determined in accordance with § 682.201;

(2) The student's estimated cost of attendance for the period for which the loan is sought;

(3) The student's estimated financial assistance for the period for which the loan is sought; and

(4) For a GSLP loan, the student's eligibility for interest benefits, as determined in accordance with § 682.301.

(20 U.S.C. 1077, 1078, 1078-2, 1082, 1085, 1094)

§ 682.605 The borrower's loan check.

(a) *Purpose.* This section establishes rules governing a school's processing of a borrower's loan check. The school shall also comply with any rules for processing a loan check contained in 34 CFR Part 668. The rules in this section do not apply to a loan made by a school lender if the student is attending that school.

(b) *General.* (1) Except in the case of a PLUS Program loan to a parent borrower or a loan to a student attending a foreign school, a GSLP or PLUS Program loan check is made jointly payable to the borrower and the school and is sent directly to the school by the lender.

(2) Except in the case of a late disbursement under paragraph (e) of this section, a school may release the proceeds of a loan made under this part only to a student who has maintained eligibility in accordance with the provisions of § 682.201.

(c) *Processing of the check by the school.* When a school receives a loan check, it shall hold the check until the student enrolls, and then either—

(1) Endorse the check on its own behalf and promptly deliver it to the student; or

(2) Obtain the student's endorsement, endorse the check on its own behalf, apply to its own account the portion of the loan proceeds that the student currently owes the school for costs of attendance, as described in paragraph (d) of this section, and promptly deliver the remaining loan proceeds to the student.

(d) *Applying the loan proceeds.* When a school receives a loan check, it may only apply to its own account those loan proceeds covering costs of attendance owed to the school by the student for which substantially all of the school's students have been billed. If the school determines that the student has not enrolled as expected, the school shall return the check to the lender within 30 days of this determination.

(e) *Processing a late disbursement check.* (1) For the purposes of this paragraph, a loan check is considered a late disbursement check if the school receives the student's loan check from the lender either—

(i) After the end of the period of attendance for which the loan was made (*i.e.*, the expiration date of the guarantee commitment); or

(ii) Before the end of the academic period for which the loan was made, but after the student ceased to be enrolled at the school on at least a half-time basis.

(2) If a late disbursement check is accompanied by a notice from the lender that the late disbursement has been approved by the Secretary under § 682.508(g), or the appropriate guarantee agency, the school shall follow the procedure described in paragraph (c)(2) of this section.

(3) If a late disbursement check is not accompanied by the notice described in paragraph (e)(2) of this section, the school shall—

(i) Return the check to the lender within 30 days of its determination that one of the conditions described in paragraph (e)(1) of this section exists;

(ii) Send with the check—

(A) A notice that one of the conditions described in paragraph (e)(1) of this section exists; and

(B) If applicable, information concerning the student's date of withdrawal and costs of attendance owed the school for the period in which the student was enrolled on at least a half-time basis; and

(iii) Advise the student that the lender may, in accordance with the procedures in § 682.508(g) or similar procedures established by the guarantee agency, redisburse funds for the student's costs of attendance incurred before the existence of one of the conditions described in paragraph (e)(1) of this section.

(20 U.S.C. 1078, 1078-2, 1082)

§ 682.606 Determining the date of a student's withdrawal.

(a) *Purpose.* This section establishes rules for how a school shall determine the date (to include day, month, and year) on which a student to whom or on whose behalf a loan has been made

under this part withdraws from the school, for the purpose of calculating the amount of a refund due the student from the school and reporting to the lender that the student has withdrawn.

(b) *The withdrawal date.* (1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, the student's withdrawal date is the earlier of—

(i) The date the student notifies the school of the student's withdrawal; or

(ii) The date the school determines that the student has withdrawn.

(2) If the student has not returned to school at the expiration of a leave of absence approved under paragraph (c) of this section, the student's withdrawal date is the date of the first day of the leave of absence.

(3) If the student is enrolled in a program of study by correspondence, the student's withdrawal date is normally 60 days after the due date of a required lesson that the student failed to submit in accordance with the schedule for lessons established under § 682.603. However, if the student establishes in writing, within the 60-day period, a desire to continue in the program and an understanding that the required lessons must be submitted on time, the school may restore that student to in-school status for purposes of the loan made under this part. The school shall not grant the student more than one restoration to in-school status on this basis.

(c) *Leaves of absence.* A student who has been absent from school and has been granted a leave of absence by the school, in accordance with this paragraph, is not considered to have withdrawn from school for purposes of this section. A school may grant no more than a single leave of absence to a student, provided that—

(1) The student has made a written request to be granted a leave of absence;

(2) The leave of absence involves no additional charges by the school to the student; and

(3) The leave of absence does not exceed—

(i) Sixty days; or

(ii) Six months, under either of the following circumstances:

(A) The school is not a correspondence school and the school's next period of enrollment after the start of the leave of absence would begin more than 60 days after the first day of the leave of absence.

(B) The absence is requested because of the student's medically determinable condition, in which case the student must provide the school with a recommendation from a physician for a leave of absence longer than 60 days.

(20 U.S.C. 1078–2, 1082, 1094)

§ 682.607 Refund policy.

(a) *General.* (1) A school shall have a fair and equitable refund policy under which the school shall make a refund of unearned tuition, fees, and room and board charges to a student who received a GSLP or PLUS Program loan, or whose parent received a PLUS Program loan on behalf of the student, if the student—

(i) Does not enroll for the period of attendance for which the loan was intended; or

(ii) Does not complete the period of attendance for which the loan was made.

(2) The school shall provide a written statement containing its refund policy to a prospective student prior to the student's acceptance for initial enrollment, and shall make its policy known to currently enrolled students. The school shall include in its statement the procedures that a student must follow to obtain a refund. If the school changes its refund policy, it shall ensure that all students are made aware of the new policy.

(b) *Fair and equitable refund policy.* A school's refund policy is fair and equitable if that policy conforms with—

(1) The requirements of applicable State law; and

(2)(i) Specific refund standards established by the school's nationally recognized accrediting agency and approved by the Secretary; or

(ii) If no such standards exist, the specific refund policy standards contained in Appendix A to this part, or the refund policy standards set by another association of institutions of postsecondary education and approved by the Secretary.

(20 U.S.C. 1078–2, 1082, 1094)

§ 682.608 Payment of a refund to a lender.

(a) *General.* By applying for a GSLP or PLUS Program loan, a borrower authorizes the school to pay directly to the lender that portion of a refund from the school that is allocable to the loan. A school—

(1) Shall pay that portion of the student's refund that is allocable to a GSLP or PLUS Program loan to—

(i) The original lender; or

(ii) A subsequent holder, if the loan has been transferred and the school knows the new holder's identity; and

(2) Shall provide simultaneous written notice to the borrower and, if the borrower is a parent, to the student on whose behalf the loan was made, when the school pays a refund to a lender on behalf of that student.

(b) *Allocation of refund.* In determining what portion of a student's refund for an academic period is allocable to a loan received by the borrower for the same academic period, the school shall follow the procedures established in 34 CFR 668.

(c) *Timely payment.* A school shall pay each refund that is due—

(1) Within 30 days after the date of the student's withdrawal from the school, as determined in accordance with § 682.606; or

(2) In the case of a student who does not return to school at the expiration of an approved leave of absence under § 682.606(c), within 30 days after the last day of that leave of absence.

(d) *Transition requirements.* In the event of a school's closure, termination, suspension of operations, or change in ownership, the school or its successors shall make provisions for compliance with the requirements of this section with regard to students who obtained, or on whose behalf parents obtained, loans for periods of attendance at the school that began prior to the school's change in status.

(20 U.S.C. 1078–2, 1082, 1094)

§ 682.609 Termination of a school's lending eligibility.

(a) *General.* The Secretary terminates a school's eligibility to make loans under this part, if the school reaches the 15 percent limit on loan defaults described in paragraph (b) of this section.

(b) *The 15 percent limit.* (1) The Secretary terminates a school's eligibility to make loans if, during each of the two most recent consecutive one-year periods for which data is available, the total amount of loans described in paragraph (b)(1)(i) of this section is equal to or greater than 15 percent of the total amount of loans described in paragraph (b)(1)(ii) of this section.

(i) The original principal amount of all loans the school has ever made that went into default during that period.

(ii) The original principal amount of all loans the school has ever made, including loans in deferment status that—

(A) Were in repayment status at the beginning of that period; or

(B) Entered repayment status during that period.

(2) In making the determination under this section, the Secretary considers the status of all GSLP and PLUS Program loans made by the school, whether the loans are held by the school or by a subsequent holder.

(c) *Exception based on hardship.* The Secretary does not terminate a school's lending eligibility under paragraphs (a) and (b) of this section if the Secretary

determines that the termination would result in a hardship for the school or its students. The Secretary makes this determination if the school shows that—

(1) Termination is not justified in light of recent improvements the school has made in its collection capabilities that will cause the school's loan delinquency rate to improve within the next year. Examples of these improvements include—

(i) Adopting more efficient collection procedures; or

(ii) Employing increased collection staff; or

(2) Termination would cause a substantial hardship to the school's current or prospective students or their parents based on—

(i) The extent to which the school provides, and expects to continue to provide, educational opportunities to economically disadvantaged students, as measured by the percentage of students enrolled at the school who—

(A) Are in families that fall within the "low-income family" category used by the Bureau of the Census;

(B) Would not be able to enroll, or continue their enrollment, at that school without a loan from the school; and

(C) Would not be able to obtain a comparable education at another school;

(ii) The extent to which the school offers academic programs that—

(A) Are unique in the geographical area that the school serves; and

(B) Would not be available to some students if they or their parents could not obtain loans from the school; and

(iii) The quality of improvements the school has made in its—

(A) Management of student financial assistance programs; and

(B) Conformance with sound business practices.

(d) *Termination procedures.* (1) The Secretary does not terminate the lending eligibility of a school under this section until the school has been notified of the impending action and has had an opportunity for a hearing.

(2) The Secretary or a Department of Education official designated by the Secretary begins a termination action by sending a notice to the school. The notice is sent by certified mail with return receipt requested. The notice—

(i) Informs the school of the intent to terminate the school's lending eligibility because of the school's default experience;

(ii) Specifies the proposed effective date of the termination as the following October 1; and

(iii) Informs the school that it has 15 days to—

(A) Submit any written material it wants considered in determining whether its lending eligibility should be terminated under paragraphs (a) and (b) of this section, including written material in support of a hardship exception under paragraph (c) of this section; or

(B) Request a hearing to show why the school's lending eligibility should not be terminated.

(3) If the school does not request a hearing but submits written material, the Secretary or the designated official considers that material and notifies the school as to whether the termination action will be taken.

(4) The Secretary or the designated official (presiding officer) schedules the date and place of a hearing for a school that has requested a hearing. The date of the hearing is at least 15 days from the date of receipt of the request. A presiding officer—

(i) Conducts the hearing;

(ii) Considers all written material presented before the hearing and any other material presented during the hearing; and

(iii) Determines if termination of the school's lending eligibility is warranted.

(5) The decision of the presiding officer, or of the designated official, in the event that the school has submitted written material but has not requested a hearing, is subject to review by the Secretary.

(e) *Effects of termination.* A school that has its lending eligibility terminated under this section may not—

(1) Make further loans under this part unless it has entered into a new lending agreement with the Secretary under § 682.601; or

(2) Enter into a new guarantee agreement with the Secretary until at least one year after the school's lending eligibility has been terminated under this section.

(f) *Schools under the same ownership.* If a school makes a loan to students or parents of students in attendance at other schools under the same ownership, the Secretary may make the determinations required by this section by—

(1) Treating all of the schools as one school; or

(2) Treating each school on an individual basis.

(20 U.S.C. 1078-2, 1082, 1085)

§ 682.610 Records, reports, and inspection requirements for participating schools.

(a) *General.* Each school shall—

(1) Establish and maintain proper administrative and fiscal procedures and all necessary records as set forth in these regulations and in 34 CFR Part 668 in order to—

(i) Protect the rights of students and parent borrowers;

(ii) Protect the United States from unreasonable risk of loss; and

(iii) Comply with any specific requirements in these regulations and in 34 CFR Part 668.

(2) Submit all reports required by this part and 34 CFR Part 668 to the Secretary.

(b) *Loan record requirements.* In addition to records required by 34 CFR Part 668, for each loan received under this part by or on behalf of its students, a school shall maintain a copy of the loan application and a record of—

(1) The name of the lender;

(2) The address of the lender;

(3) The amount of the loan and the period of attendance for which the loan was intended;

(4) The data used to construct an individual student budget or the school's itemized standard budget used in calculating the student's estimated cost of attendance;

(5) The amount of the student's tuition and fees paid for the loan period and the date the student paid the tuition and fees;

(6) In the case of a GSLP loan for which the borrower applies for interest benefits under § 682.301, the data used to determine the student's adjusted gross family income and the student's expected family contribution, and the corresponding certification by the school to the lender;

(7) In the case of a GSLP loan—

(i) The date the school received each loan check;

(ii) The date the school endorsed each loan check; and

(iii) The date or dates of transmittal of the loan proceeds to the student; and

(8) A record of the student's job placement, if known.

(c) *Student status reports.* A school shall—

(1) Upon receipt of a student confirmation report form from the Secretary or a similar status confirmation report form from any guarantee agency, complete and return, within 30 days of receipt, that report to the Secretary or the guarantee agency, as appropriate; and

(2) Promptly notify the lender—

(i) When the school discovers that a student who has received a GSLP loan has ceased to be enrolled on at least a half-time basis and it does not expect to submit, within the next 60 days, its next student confirmation report to the Secretary or the guarantee agency;

(ii) When the school discovers that a PLUS Program loan has been made to or on behalf of a student who has been

accepted for enrollment at that school but who fails to enroll on at least a half-time basis for the period for which the loan was intended; or

(iii) When the school discovers that a full-time student to whom a PLUS Program loan was made has ceased to be enrolled on a full-time basis.

(d) *Record retention requirements.* Unless otherwise directed by the Secretary, the school or its successors—

(1) Shall keep all records required under these regulations for five years following the last day of the period for which the loan was intended;

(2) Shall keep for five years after their completion, copies of reports and other forms used by the school and relating to the GSLP or the PLUS Program;

(3) Shall provide, in the event of the school's closure, termination, suspension, or change of ownership, for the retention of the records and reports required by these regulations and for access by the Secretary or his authorized representatives to those records and reports; and

(4) May keep records and copies of reports on microfilm or in computer format.

(e) *Inspection requirements.* Upon request, a school shall afford the Secretary, a guarantee agency and any of their authorized representatives, access to its records in order to verify the accuracy of its reports or the school's compliance with the Act and applicable regulations.

(20 U.S.C. 1078–2, 1082, 1094)

Subpart G—Limitation, Suspension, or Termination of Lender Eligibility Under the Guaranteed Student Loan Program and the PLUS Program

§ 682.700 Purpose and scope.

(a) This subpart governs the limitation, suspension, or termination of the eligibility of an otherwise eligible lender to participate in the GSLP and the PLUS Program. These regulations apply to a lender that violates any statutory provision governing the GSLP or the PLUS Program or any regulations, special arrangements, agreements, or limitations prescribed under the GSLP or the PLUS Program. These regulations apply to lenders that participate in a guarantee agency program as well as lenders that participate in the FISLP or the Federal PLUS Program.

(b) This subpart does not apply—

(1) To a determination that an organization fails to meet the definition of "eligible lender" in § 435(g)(1) of the Act;

(2) To a school's loss of lending eligibility under § 682.609; or

(3) To administrative action by the Department of Education based on any alleged violation of—

(i) The Family Educational Rights and Privacy Act of 1974 (Section 438 of the General Education Provisions Act), which is governed by 34 CFR Part 99;

(ii) Title VI of the Civil Rights Act of 1964, which is governed by 34 CFR Parts 100 and 101;

(iii) Section 504 of the Rehabilitation Act of 1973 (relating to discrimination on the basis of handicap), which is governed by 34 CFR Part 104; or

(iv) Title IX of the Education Amendments of 1972 (relating to sex discrimination), which is governed by 34 CFR Part 106.

(c) This subpart does not supplant any rights or remedies that the Secretary may have against participating lenders under other authorities.

(20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.701 Definitions of terms used in this subpart.

The following definitions are used in this subpart:

Designated Departmental official: An official of the Department of Education to whom the Secretary has delegated the responsibility for initiating and pursuing limitation, suspension, or termination proceedings.

Limitation: The continuation of a lender's eligibility subject to compliance with special conditions established by the Secretary as the result of a limitation or termination proceeding.

Suspension: The removal of a lender's eligibility for a specified period of time or until the lender fulfills certain requirements.

Termination: The removal of a lender's eligibility for an indefinite period of time.

(20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.702 Effect on participation.

(a) Limitation, suspension, or termination proceedings do not affect a lender's responsibilities, or rights to benefits and claim payments, that are based on the lender's prior participation in the program, except as provided in paragraph (c) of this section and in § 682.709.

(b) Effect of limitation: A limitation imposes on a lender—

(1) A limit on the number of total amount of GSLP or PLUS Program loans that a lender may make, purchase, or hold;

(2) A limit on the number or total amount of GSLP or PLUS Program loans a lender may make to, or on behalf of, students at a particular school; or

(3) Other reasonable requirements or conditions, including those described in § 682.709.

(c) Effect of termination: After the effective date of the termination of a lender's eligibility, the Secretary does not guarantee new loans made by that lender or pay interest benefits, special allowance, or reinsurance on new loans guaranteed by a guarantee agency after such date. The Secretary may also prohibit the lender from making further disbursements on a loan for which a guarantee commitment has already been issued.

(20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.703 Informal compliance procedure.

(a) The Secretary may use the informal compliance procedure in paragraph (b) of this section when the Secretary receives a complaint or other reliable information indicating that a lender may be in violation of applicable laws, regulations, special arrangements, agreements, or limitations.

(b) Under the informal compliance procedure, the Secretary gives the lender a reasonable opportunity to—

(1) Respond to the complaint or information;

(2) Show that the violation has been corrected; or

(3) Submit an acceptable plan for correcting the violation and preventing its recurrence.

(c) The Secretary does not delay limitation, suspension, or termination procedures during the informal compliance procedure if—

(1) The delay would harm the GSLP or the PLUS Program; or

(2) The informal compliance procedure will not result in correction of the alleged violation.

(20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.704 Emergency action.

(a) The Secretary, or a designated Department official, may take emergency action to stop issuing guarantee commitments to a lender if the Secretary—

(1) Receives reliable information that the lender is in violation of applicable laws, regulations, special arrangements, agreements, or limitations;

(2) Determines that immediate action is necessary to prevent the likelihood of substantial losses by the Federal Government, parents, or students; and

(3) Determines that the likelihood of loss exceeds the importance of following the procedures for limitation, suspension, or termination.

(b) The Secretary begins an emergency action by notifying the lender, by certified mail with return

receipt requested, of the action and the basis for the action.

(c) The effective date of the action is the date the notice is mailed to the lender.

(d)(1) An emergency action does not exceed 30 days unless a limitation, suspension, or termination proceeding is begun before that time expires.

(2) If a limitation, suspension, or termination proceeding is begun before the expiration of the 30-day period—

(i) The emergency action may be extended until completion of the proceeding, including any appeal to the Secretary; and

(ii) The Secretary provides, upon the request of the lender, an opportunity for the lender to demonstrate that the emergency action is unwarranted.

(20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.705 Suspension proceedings.

(a) *Scope.* (1) A suspension removes a lender's eligibility under the GSLP and the PLUS Program, and the Secretary does not guarantee a new loan made by the lender for a period not to exceed 60 days from the effective date of the suspension, unless—

(i) The lender and the Secretary agree to an extension of the suspension period, if the lender has not requested a hearing; or

(ii) The Secretary begins a limitation or a termination proceeding.

(2) If the Secretary begins a limitation or a termination proceeding before the suspension period ends, the Secretary may extend the suspension period until the completion of that proceeding, including any appeal to the Secretary.

(b) *Notice.* (1) The Secretary, or a designated Department official, begins a suspension proceeding by sending the lender a notice by certified mail with return receipt requested.

(2) The notice—

(i) Informs the lender of the Secretary's intent to suspend the lender's eligibility for a period not to exceed 60 days;

(ii) Describes the consequences of a suspension;

(iii) Identifies the alleged violations on which the proposed suspension is based;

(iv) States the proposed effective date of the suspension, which is at least 20 days after the date of mailing of the notice;

(v) Informs the lender that the suspension will not take effect on the proposed effective date if the Secretary receives, at least five days prior to that date, a request for a hearing or written material showing why the suspension should not take effect; and

(vi) Asks the lender to voluntarily correct any alleged violations.

(c) *Hearing.* (1) If the lender does not request a hearing but submits written material, the Secretary, or a designated Department official, considers the material and—

(i) Dismisses the proposed suspension; or

(ii) Notifies the lender of the effective date of the suspension.

(2) If the lender requests a hearing within the time specified in paragraph (b)(2)(v) of this section, the Secretary schedules the date and place of the hearing. The date is at least 15 days after receipt of the request from the lender. No proposed suspension takes effect until a hearing is held.

(3) The hearing is conducted by a presiding officer who—

(i) Ensures that a written record of the hearing is made;

(ii) Considers relevant written material presented before the hearing and other relevant evidence presented during the hearing; and

(iii) Issues a decision, based on findings of fact and conclusions of law, that may suspend the lender's eligibility only if the presiding officer is persuaded that the suspension is warranted by the evidence.

(4) The formal rules of evidence do not apply, and no discovery, as provided in the Federal Rules of Civil Procedure, is required.

(5) The presiding officer shall base findings of fact only on evidence considered at or before the hearing and matters given official notice.

(6) The initial decision of the presiding officer is mailed to the lender.

(7) The Secretary reviews the decision of the presiding officer. The Secretary affirms a decision of the presiding officer imposing a suspension unless it is clearly unsupported by the evidence. The Secretary affirms a decision declining to impose a suspension if the Secretary believes suspension is not warranted by the evidence. The Secretary notifies the lender of the Secretary's decision by mail.

(8) A suspension takes effect on either the date that the notice of a decision imposing the suspension is mailed to the lender, or on the original proposed effective date stated in the notice sent under paragraph (b) of this section, whichever is later.

(20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.706 Limitation or termination proceedings.

(a) *Notice.* (1) The Secretary, or a designated Department official, begins a limitation or termination proceeding, whether or not a suspension proceeding has begun, by sending the lender a notice by certified mail with return receipt requested.

(2) The notice—

(i) Informs the lender of the Secretary's intent to limit or terminate the lender's eligibility;

(ii) Describes the consequences of a limitation or termination;

(iii) Identifies the alleged violations on which the proposed limitation or termination is based;

(iv) States the limits which may be imposed, in the case of a limitation proceeding;

(v) States the proposed effective date of the limitation or termination, which is at least 20 days after the date of mailing of the notice;

(vi) Informs the lender that the limitation or termination will not take effect on the proposed effective date if the Secretary receives, at least five days prior to that date, a request for a hearing or written material showing why the limitation or termination should not take effect; and

(vii) Asks the lender to voluntarily correct any alleged violations.

(b) *Hearing.* (1) If the lender does not request a hearing but submits written material, the Secretary, or a designated Department official, considers the material and—

(i) Dismisses the proposed limitation or termination; or

(ii) Notifies the lender of the effective date of the limitation or termination.

(2) If the lender requests a hearing within the time specified in paragraph (a)(2)(vi) of this section, the Secretary schedules the date and place of the hearing. The date is at least 15 days after receipt of the request from the lender. No proposed limitation or termination takes effect until a hearing is held.

(3) The hearing is conducted by a presiding officer who—

(i) Ensures that a written record of the hearing is made;

(ii) Considers relevant written material presented before the hearing and other relevant evidence presented during the hearing; and

(iii) Issues an initial decision, based on findings of fact and conclusions of law, that may limit or terminate the lender's eligibility if the presiding officer is persuaded that the limitation or termination is warranted by the evidence.

(4) The formal rules of evidence do not apply, and no discovery, as provided in the Federal Rules of Civil Procedure, is required.

(5) The presiding officer shall base findings of fact only on evidence

considered at the hearing and matters given official notice.

(6) If a termination action is brought against a lender, and the presiding officer concludes that a limitation is more appropriate, the presiding officer may issue a decision imposing one or more limitations on a lender rather than terminating the lender's eligibility.

(7) The initial decision of the presiding officer is mailed to the lender.

(8) Any time schedule specified in this section may be shortened with the approval of the presiding officer and the consent of the lender and the Secretary or designated Department official.

(9) The presiding officer's initial decision automatically becomes the Secretary's final decision 20 days after it is issued, unless the lender or designated Department official appeals the decision to the Secretary within this period.

(20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.707 Appeals in a limitation or termination proceeding.

(a) If the lender or designated Department official appeals the initial decision of the presiding officer in accordance with § 682.706(b)(9), the Secretary—

(1) Sets a time period for the appealing party to submit additional written material, including exceptions to the initial decision, proposed findings, and conclusions, and supporting briefs and statements;

(2) Sets a time by which the opposing party must respond; and

(3) Issues a final decision affirming, modifying, or reversing the initial decision, including a statement of the reasons for the Secretary's decision.

(b) Any party submitting material to the Secretary must provide a copy to each party that participated in the hearing.

(c) If the presiding officer's initial decision would limit or terminate the lender's eligibility, it does not take effect pending the appeal, unless the Secretary determines that a stay of the effective date would seriously and adversely affect the GSLP, the PLUS Program, students, or parents.

(20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.708 Evidence of mailing and receipt dates.

(a) All mailing dates and receipt dates referred to in this subpart are evidenced by the original receipts from the U.S. Postal Service.

(b) If a lender refuses to accept a notice mailed under this subpart, the Secretary considers the notice as being received on the date that the lender refuses to accept the notice.

(20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.709 Reimbursements, refunds, and offsets.

(a) As part of a limitation or termination proceeding, the Secretary, or a designated Department official, may require a lender to take reasonable corrective action to remedy a violation of applicable laws, regulations, special arrangements, agreements, or limitations.

(b) The corrective action may include payment to the Secretary or recipients designated by the Secretary of any funds, and any interest thereon, that the lender improperly received, withheld, disbursed, or caused to be disbursed.

(c) If a final decision requires a lender to reimburse or make any payment to the Secretary, the Secretary may offset the amount due against any interest benefits, special allowance, or other payments due to the lender.

(20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.710 Removal of limitation.

(a) A lender may request removal of a limitation imposed in accordance with these regulations at any time more than 12 months after the effective date of the limitation.

(b) The request must be in writing and must show that the lender has corrected any violations on which the limitation was based.

(c) Within 60 days after receiving the request, the Secretary—

(1) Grants the request;

(2) Denies the request; or

(3) Grants the request subject to other limitations.

(d)(1) If the Secretary denies the request or establishes other limitations, the lender, upon request, is given an opportunity to show why all limitations should be removed.

(2) A lender may continue to participate in the GSLP and the PLUS Program, subject to any limitation imposed by the Secretary under paragraph (c)(3) of this section, pending a decision by the Secretary on a request under paragraph (d)(1) of this section.

(20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.711 Reinstatement after termination.

(a) A lender whose eligibility has been terminated by the Secretary in accordance with these regulations may request reinstatement of its eligibility at any time more than 18 months after the effective date of the termination.

(b) The request must be in writing and must show that—

(1) The lender has corrected any violations on which the termination was based; and

(2) The lender meets all requirements for eligibility.

(c) A school lender whose eligibility as a participating school has been terminated under 34 CFR Part 668, Student Assistance General Provisions, may not be considered for reinstatement as a GSLP or PLUS Program lender until it is reinstated as a participating school. However, the school may request reinstatement as both a school and a lender at the same time.

(d) Within 60 days after receiving a request for reinstatement, the Secretary—

(1) Grants the request;

(2) Denies the request; or

(3) Grants the request subject to limitations.

(e)(1) If the Secretary denies the lender's request, or allow reinstatement subject to limitations, the lender, upon request, is given an opportunity to show why its eligibility should be reinstated and all limitations removed.

(2) A lender, whose eligibility to participate in the GSLP and the PLUS Program is reinstated subject to limitations imposed by the Secretary pursuant to paragraph (d)(3) of this section, may participate in those programs, subject to those limitations, pending a decision by the Secretary on a request under paragraph (e)(1) of this section.

(20 U.S.C. 1078–2, 1080, 1082, 1094)

Subpart H—[Reserved]

Appendix A—[Reserved]

Appendix B—[Reserved]

Appendix C—Procedures for Curing Violations of the Due Diligence in Collection and Timely Filing of Claims Requirements Applicable to FISLP Loans and for Repayment of Interest and Special Allowance Overbillings [Bulletin L–77a]

Introduction

This bulletin prescribes procedures for lenders to use (1) to cure violations of the requirements for due diligence in collection ("the diligence") and timely filing of claims under the Federal Insured Student Loan Program (FISLP), and (2) to repay interest and special allowance overbillings made on loans evidencing such violations. *See* 34 CFR 682.511, 682.516 (1981).[1] These procedures allow for the reinstatement of a lender's eligibility for interest and special allowance and claim payments on loans evidencing such violations, under specified circumstances. These procedures apply to loans for which

[1] All references to the program regulations are to Part 682 of Title 34 of the Code of Federal Regulations (34 CFR Part 682), which was formerly 45 CFR Part 177.

the first day of the 120-day or 180-day default period (set out in 34 CFR 682.200) occurred on or after October 21, 1979 (the effective date of the September 17, 1979, regulations), *whether or not* the loans have previously been submitted as claims to the Secretary.

The due diligence and timely filing requirements governing the FISLP were established in response to requests from some lenders for more detailed regulatory guidance on the proper handling of FISLP loans. Despite the promulgation of these provisions, a number of lenders have failed to exercise the requisite care in their treatment of these loans, thereby increasing the risk of default thereon and, in many cases, prejudicing the Secretary's ability to collect from the borrowers. At the time the current due diligence and timely filing rules were issued, the Secretary anticipated that violations of these rules would be so infrequent as to permit requests for cures to be handled individually. *See* 44 FR 53916 (September 17, 1979). However, the unexpectedly high incidence of violations of these rules has made continued case-by-case treatment of all cure requests administratively unmanageable. After carefully considering the views of lenders and other program participants, the Secretary has decided to exercise his authority under 20 U.S.C. 1082(a) (5), (6), and 34 CFR 682.517(g), and institute uniform procedures by which lenders with loans involving violations of the due diligence or timely filing requirements may cure these violations.

Due Diligence

Except as provided in 34 CFR 682.509(e)(3), collection activity is required to begin immediately upon delinquency by the borrower in honoring the repayment obligation. This holds true whether or not the borrower received a repayment schedule or signed a repayment agreement. Under 34 CFR 682.200, default on a FISLP loan occurs when a borrower fails to make a payment when due, provided this failure persists for 120 days for loans payable in monthly installments, or for 180 days for loans payable in less frequent installments. If, however, the lender has added the optional provision to the promissory note requiring the borrower to execute a repayment agreement not later than 120 days prior to the expiration of the grace period (*see* 34 CFR 682.509(e)(3)), the lender sends the agreement to the borrower 150 days or more before the end of the grace period, and the agreement is not executed before the end of the grace period, default occurs at that time. *See* 34 CFR 682.510(b)(ii). One exception to this rule is as follows: if the holder of the loan is not the lender that made the loan, the holder may choose to forego enforcement of the optional 120-day provision in the note.

The 120/180 day default period applies regardless of whether payments were missed consecutively or intermittently. For example, if the borrower, on a loan payable in monthly installments, makes his January 1st payment on time, his February 1st payment two months late (April 1st), his March 1st payment three months late (June 1st), and makes no further payments, the default period begins on February 1st, with the first delinquency, and ends on August 1st, when the April 1st payment becomes 120 days past due. The lender must treat the payment made on April 1st as the February 1st payment, since the February 1st payment had not been made prior to that time. Similarly, the lender must treat the payment made on June 1st as the March 1st payment, since the March payment had not been made prior to that time. *Note:* Lenders are strongly encouraged to exercise forbearance, *prior* to default, for the benefit of borrowers who have missed payments intermittently but have otherwise indicated willingness to repay their loans. *See* 34 CFR 682.512. The forbearance process helps to reduce the incidence of default, and serves to emphasize for the borrower the importance of compliance with the repayment obligation.

Timely Filing

The 90-day filing period applicable to FISLP default claims is set forth in 34 CFR 682.516(e)(1). The 90-day filing period begins at the end of the 120/180 day default period. The lender must file a default claim on a loan in default by the end of the filing period, unless the borrower brings the account current before the end of the filing period. In such a case, the lender may choose not to file a claim on the loan at that time.

In addition, for any loan less than 210 days delinquent on the date of this bulletin, the lender need not file a claim on that loan before the 210th day of delinquency (120-day default period plus 90-day filing period) if the borrower brings the account less than 120 days delinquent before such 210th day. Thus, in the above example, if the borrower makes the April 1st payment on August 2nd, the 90-day filing period continues to run from August 1st, unless the loan was less than 210 days delinquent on the date of this bulletin. If the loan was less than 210 days delinquent on the date of this bulletin, then the August 2nd payment makes the loan 91 days delinquent, and the lender may, but need not file a default claim on the loan at that time. If, however, that loan again becomes 120 days delinquent, the lender must file a default claim within 90 days thereafter (unless the loan is again brought to less than 120 days delinquent prior to the end of that 90 day period). In other words, for any loan less than 210 days delinquent on the date of this bulletin, the Secretary will permit a lender to treat payments made during the filing period as "curing" the default if such payments are sufficient to make the loan less than 120 days delinquent.

If a lender fails to comply with either the due diligence or timely filing requirements, the affected loan ceases to be insured; that is, the lender loses its right to receive interest benefits, special allowance and claim payments thereon. Some examples of violations of the due diligence requirements are set out in section I.C. below.

I. Cure Procedures

A. Definitions

The following definitions apply to terms used throughout Section I of this bulletin.

"Full payment" means payment by the borrower, or another person (other than the lender) on the borrower's behalf, in an amount at least as great as the monthly payment amount required under the existing terms of the loan, exclusive of any forbearance agreement in force at the time of the default. (For example, if the original repayment schedule or agreement called for payments of $30 per month, but a forbearance agreement was in effect at the time of default that allowed the borrower to pay $15 per month for a specified time, and the borrower defaulted in making the reduced payments, a "full payment" would be $30, or two $15 payments in accordance with the original repayment schedule or agreement.)

"Reinstatement" with respect to insurance coverage means the reinstatement of the lender's right to receive default, death, disability, or bankruptcy claim payments for the unpaid principal balance of the loan and for unpaid interest accruing on the loan after the date of reinstatement. Upon reinstatement of insurance, the borrower regains the right to receive forbearance or deferments, as appropriate. For purposes of this bulletin, "reinstatement" with respect to insurance on a loan does not include reinstatement of the lender's right to receive interest and special allowance payments on that loan. Reinstatement of the lender's rights to receive interest and special allowance payments is addressed in Section I.B.1, below.

B. General

1. *Resumption of Interest and Special Allowance Billing on Loans Involving Due Diligence or Timely Filing Violations.* For any loan on which a cure is attempted under this bulletin, the lender may resume billing for interest and special allowance on the loan only for periods following the earlier of (1) its receipt of the equivalent of three full payments thereon, after the date of this bulletin or the date of the violation, whichever is later, or (2) receipt by the borrower of an authorized deferment, after reinstatement of insurance coverage.

2. *Reservation of the Secretary's Right to Strict Enforcement.* While this bulletin allows crues to be attempted for particular violations in specified ways, the Secretary retains the option of refusing to permit or recognize cures in cases where, in the Secretary's judgment, a lender has committed an excessive number of severe violations of the due diligence or timely filing rules, and in cases where the best interests of the program otherwise require strict enforcement of these reguirements. More generally, this bulletin states the Secretary's general policy and is not intended to limit in any way the authority and discretion afforded the Secretary by statute or regulation.

3. *Interest and Special Allowance Repayment and Certification Required as a Condition for the Secretary's Recognition of a Cure.* The Secretary has commenced a concerted effort to recoup all excess interest and special allowance payments made on loans involving due diligence or timely filing violations. Accordingly, the Secretary will not recognize cures for such violations until the lender has filed an executed Interest and Special Allowance Certification Form (Attachment A) with the Division of

Certification and Program Review of the regional office responsible for the State in which the lender maintains its principal place of business. Additionally, the lender must enclose a photocopy of the certification with each "cured" claim it files.

4. *Applicability of the Cure Procedures to Particular Classes of Loans.* The cure procedures outlined in this bulletin apply only to a loan for which the first day of the 120/180 day default period that ended with default by the borrower occurred on or after October 21, 1979, and which involve violations *only* of the due diligence and/or timely filing requirements.

The cure procedures applicable to loans involving due diligence violations also apply to loans involving violations of both the timely filing and due diligence requirements.

5. *Excusal of Certain Due Diligence Violations.* A lender whose claim was previously denied *solely* for violation of the timely filing rule, and who is permitted to cure that violation under the procedures set out in this bulletin, will not be required to utilize the procedures for curing due diligence violations, or to repay interest and special allowance improperly received from the Secretary as a result of a due diligence violation for periods prior to the timely filing violation. This applies even if, upon submission of the "cured" claim, the Secretary discovers that evidence of due diligence violations appeared in the file of the previously rejected claim.

The Secretary will also excuse a due diligence violation by a lender if the account was brought current by the borrower (or another, other than the lender, on the borrower's behalf) prior to the 120th/180th day of the delinquency period during which the violation occured.

6. *Treatment of Accrued Interest on "Cured" Claims.*—a. *Due Diligence Violations.* For any default claim involving "cured" violations of the due diligence rules, the Secretary will not reimburse the lender for any unpaid interest accruing after the first day of the 120/180 day period that culminated in default, and prior to the date of reinstatement of insurance coverage.

For any loan involving "cured" due diligence violations, the lender may capitalize unpaid interest accuring on the loan from the commencement of the 120/180 day default period to the date of the reinstatement of insurance coverage. See sections I.C. and D. below. However, if the lender later files a claim on that loan, the lender must deduct this capitalized interest from the amount of the claim. This deduction must be reflected in Column 15 on the OE Form 1207, Lender's Application for Insurance Claim on Federal Insured Student Loan, filed with the claim evidencing the cure.

b. *Timely Filing Violations.* For any default claim involving "cured" violations of the timely filing rules, the Secretary will not reimburse the lender for any tnpaid interest accuring after the end of the 120/180 day default period that culminated in default, and prior to the date of reinstatement of insurance coverage.

For any default claim involving a "cured" timely filing violation, if insurance coverage is later reinstated, the lender may capitalize unpaid interest accruing on the loan from the commencement of the original 120/180 day default period to the date of the reinstatement of insurance coverage. See sections I.C. and D. below. However, if the lender later files a claim on that loan, the lender must deduct this capitalized interest from the amount of the claim, except that the lender need not deduct from the claim unpaid interest that accrued on the loan during the original 120/180 day default period. This deduction must be reflected in Column 15 of the OE Form 1207, Lender's Application for Insurance Claim on Federal Insured Student Loan filed with the claim evidencing the cure.

Some timely filing cures will not reinstate insurance coverage. For treatment of accrued interest in such cases, see Section I.D.1.c.

7. *Documents to be Submitted with "Cured" Claims.* The Secretary requests that any lender submitting a claim on a loan involving "cured" violations identify the claim as such with a note in the claim file stapled to the new OE From 1207.

For all "cured" claims, the lender must submit:

- For loans on which a claim was previously rejected, all documents sent by the regional office with the original claim (when the claim was rejected and returned to the lender), including without limitation, the original OE Form 1207 and all documents showing the reason(s) for the original rejection;
- All documents ordinarily required in connection with the submission of a default claim, including, without limitation, the promissory note, which must bear a valid assignment to the United States of America;
- A new OE Form 1207;
- All documents showing that the lender has complied with the applicable cure procedures and requirements; and
- A copy of the Interest and Special Allowance Certification form (Attachment A).

C. Cures for Violations of the Due Diligence in Collection Requirements (34 CFR 682.511)

A violation of the due diligence in collection rules occurs when a lender fails to meet requirements found in 34 CFR 682.511. For example, a violation occurs if the lender fails to:

- Remind the borrower of the date a missed payment was due within 15 days of delinquency;
- Attempt to contact the borrower and any endorser at least 3 times at regular intervals during the rest of the 120/180 day default period;
- Request pre-claims assistance from the Department of Education;
- Request skip-tracing assistance from the Secretary, if required, or
- Send a final demand letter to the borrower exercising the option to accelerate the due date for the outstanding balance of the loan, unless the lender does not know the borrower's address as of the 90th day of delinquency.

1. *Reinstatement of Insurance Coverage.* In the case of a due diligence violation, the lender may utilize either of the two procedures described below for obtaining reinstatement of insurance coverage on the loan. After the date of this bulletin, or after the date of the violation, whichever is later,

(a) the lender obtains a new repayment agreement signed by the borrower which complies with the ten and fifteen year repayment limitations set out in 34 CFR 682.507(b); or

(b) the lender obtains 3 full payments. If the borrower later defaults, the lender must submit evidence of these payments (*e.g.* copies of the checks) with the claim.

2. *Borrower Deemed Current As of Date of Cure.* On the date the lender receives a signed copy of the new repayment agreement, or receives the third (curing) payment, insurance coverage on the loan is reinstated, and the borrower shall be deemed by the lender to be current in repaying the loan and entitled to all rights and benefits available to FISLP borrowers. If the borrower later becomes delinquent in repayment, the lender shall follow the collection procedures set out in 34 CFR 682.511, and the timely filing requirements set out in 34 CFR 682.516.

D. Cures for Violations of the Timely Filing Requirements (34 CFR 682.516)

1. *Default Claims.*—a. *Reinstatement of Insurance Coverage.* In order to obtain reinstatement of insurance coverage on a loan in the case of a timely filing violation, the lender must first locate the borrower after the date of this bulletin, or after the date of the violation, whichever is later (see page 8 for description of acceptable evidence of location). Then, the lender must send to the borrower, at the address at which the borrower was located, (i) a new repayment agreement, to be signed by the borrower, which complies with the ten and fifteen year repayment limitations set out in 34 CFR 682.507, along with (ii) a collection letter indicating in strong terms the seriousness of the borrower's delinquency and its potential effect on his or her credit rating if repayment is not commenced or resumed.

If, within 30 days after the lender sends these items, the borrower fails to make a full payment or to sign and return the new repayment agreement, the lender shall, within 5 working days thereafter, send the borrower a copy of the attached "8-Hour" collection letter, on the lender's letterhead. (See Attachment B).

b. *Borrower Deemed Current Under Certain Circumstances.* If, within 45 days after the lender sends the new repayment agreement to the borrower for signature, the borrower makes a full payment or signs and returns the new repayment agreement, insurance coverage on the loan is reinstated. The borrower shall be deemed by the lender to be current in repaying the loan and entitled to all rights and benefits available to FISLP borrowers. If the borrower later becomes delinquent in repayment, the lender shall follow the collection steps set out in 34 CFR 682.511, and the timely filing requirements set out in 34 CFR 682.516.

c. *Borrower Deemed in Default Under Certain Circumstances.* If the borrower does not make a full payment, or sign and return the new repayment agreement, within 45 days after the lender sends the new repayment agreement, the lender shall deem

the borrower to be in default. The lender shall then file a default claim on the loan accompanied by acceptable evidence of location (see I.D.1.d below), within 30 days after the end of such 45-day period. Although insurance coverage is not reinstated on loans involving these circumstances, the Secretary will honor default claims submitted in accordance with this paragraph, on the outstanding principal balance of such loans, and on unpaid interest accruing on the loan during the 120/180 day default period.

d. *Acceptable Evidence of Location.* Only the following documentation is acceptable as evidence that the lender has located the borrower:

(i) Postal receipt signed by the borrower not more than 25 days prior to the date on which the lender sent the new repayment agreement, indicating acceptance of correspondence from the lender by the borrower at the address shown on the receipt; *or*

(ii) A completed "Certification of Borrower Location" form (Attachment C).

2. *Death, Disability, and Bankruptcy Claims.* Lenders may immediately resubmit any death or disability claim which was rejected solely for failure to meet the 60 day timely filing requirement (*see* 34 CFR 682.516 (e)(2),(3).) However, the Secretary will not pay any such claim if, before the date the lender determined that the borrower died or was totally and permanently disabled, the lender had violated the due diligence or timely filing requirements applicable to default claims with respect to that loan. Interest that accrued on the loan after the expiration of the 60-day filing period remains uninsured by the Secretary, and the lender must repay all interest and special allowance received on the loan for periods after the expiration of the 60-day filing period.

The Secretary has determined that, in the vast majority of cases, the failure of a lender to comply with the timely filing requirement applicable to *bankruptcy* claims causes irreparable harm to the Secretary's ability to contest the discharge of the loan by the court, or to otherwise collect from the borrower. Therefore, the Secretary has decided not to permit cures for violations of the timely filing requirement applicable to bankruptcy claims, except when the lender can demonstrate that the bankruptcy action has concluded and that the loan has not been discharged in bankruptcy. In that case, the lender shall treat the loan as in default. The Secretary will honor a default claim later filed on such a loan only if the lender has met the cure requirements set out in Section I.C. above for due diligence violations.

II. Repayment of Interest and Special Allowance on Loans Evidencing Violations of the Due Diligence or Timely Filing Requirements

A. General Rule

It has always been the Secretary's interpretation of the FISLP statute and regulations that a lender's right to receive interest and special allowance payments on a FISLP loan terminates immediately following the lender's violation of the due diligence or timely filing requirements. This applies whether or not the lender has filed a claim on the loan. In other words, lenders may receive interest and special allowance only on loans which are insured by the Secretary. Since these violations result in the termination of insurance, they also result in the termination of FISLP benefits.

B. Cessation of Billing on Loans Evidencing Violations of the Due Diligence or Timely Filing Requirements

Any lender currently billing the Secretary for interest and special allowance on a loan that the lender *knows* involves a due diligence or timely filing violation must cease doing so immediately. However, except in connection with the certification described below, lenders are not required at this time to review their loan portfolios for due diligence and timely filing violations.

C. Determination of Amounts of Interest and Special Allowance That Must Be Repaid

1. *Due Diligence Violations.* In the case of due diligence violations, it is often difficult to ascertain the precise date on which a violation occurred. For the administrative ease of the Secretary and lenders, the Secretary has decided to waive his right to recoup interest and special allowance payments made to a lender for periods between the date of a due diligence violation and the end of the 120/180 day default period. However, any lender that has received interest and/or special allowance payments from the Secretary for periods after the end of the 120/180 day default period on a loan that the lender *knows* involves a due diligence violation must promptly repay those amounts.

2. *Timely Filling Violations.* In the case of timely filing violations, the lender loses its right to receive interest and special allowance payments as of the expiration of the applicable timely filing period. Therefore, any lender that has received interest and/or special allowance payments from the Secretary for periods following the end of the applicable timely filing period on a loan that the lender *knows* involves a timely filing violation must repay those amounts.

3. *Situations in Which a Lender May Have Received Interest Benefits for Periods During Which a Loan was Uninsured.* Because most due diligence violations, and all timely filing violations, occur after termination of the grace period, interest payments are ordinarily not affected by such violations. However, there are three types of situations in which a lender may have received interest payments from the Secretary to which it was not entitled due to a due diligence or timely filing violation.

a. *Promissory notes that include a requirement that the borrower sign a repayment agreement no later than 120 days prior to the expiration of the grace period.* In such cases, a due diligence violation may occur during the grace period, when the lender may otherwise have been eligible to receive interest benefits. However the lender need not repay that interest to the Secretary. *See* II.C.1 above.

b. *Deferment Periods.* A due diligence violation may occur prior to a deferment period when the lender would otherwise have been eligible to receive interest benefits.

c. *Loans Made Prior to December 15, 1968.* A loan disbursed prior to December 15, 1968, and which qualified for payment of Federal interest benefits at the time the loan was disbursed, qualifies for payment of a 3 percent interest subsidy on the unpaid principal balance during the entire repayment period, provided the loan remains insured. In the case of such a loan, a due diligence or timely filing violation terminates the lender's eligibility for the 3 percent payments.

D. Procedures for Repayment of Federal Interest Benefits and Special Allowance Received by a Lender for Periods During Which a Loan Was Uninsured

A Lender must make the repayments of interest and/or special allowance discussed in II.C. above, by way of an adjustment during the two quarters immediately following the discovery of the violation. These adjustments must be reported in a format similiar to that in Attachment D, and must not be reported on the normal Lender's Request for Interest and Special Allowance (ED Form 799) submission. Lenders are requested not to send a check with the adjustment, the overpaid amount will be deducted by the Secretary from the lender's next regular interest and special allowance payment. The adjustment must state the quarters for which the adjustment is being made, and the total dollar amounts of all loans involved in the adjustment. In addition, for five years after any loan for which an adjustment is made is repaid in full, the lender shall retain a record of the basis for the adjustment showing the amount(s) of the overbilling(s) repaid, the violation(s) giving rise to the overbilling(s), and the date it used for cessation of interest and/or special allowance eligibility in calculating the overbilled amount. *See* 34 CFR 682.519(a)(2)(i). Completed adjustment forms should be sent to the following address: Student Loan Processing Center, P.O. Box 2640, Norfolk, Virginia 23501.

Attachments.

Attachment A—Interest and Special Allowance Certification Form

I, (name) ————, as a duly authorized official of (lender name and address) ————, hereby certify on behalf of this institution as follows:

(1) After consulting with all appropriate employees, agents, and servicers of this institution responsible for the collection of, and the filing of claims on, FISLP loans, I have determined that this institution has not knowingly delayed filing claims on FISLP loans evidencing violations of the due diligence, timely filing or other requirements for the purpose of continuing to bill the Secretary of Education or his predecessors for interest benefits or special allowance thereon, nor will this institution do so in the future.

(2) This institution will thoroughly review all FISLP loans for which claims were denied for violation of the due diligence in collection or timely filing regulations promulgated in 1979, 34 CFR 682.511 and .516, respectively. The purpose of this review will be to determine how much interest and special allowance the Secretary has paid this institution on these loans for the period(s)

during which they were uninsured due to these violations. This institution will repay any and all such amounts so determined by way of an adjustment to one of the next two quarterly interest and special allowance billings (ED Form 799).

(3) This institution will retain all records and upon request will provide the Secretary of Education with all information required by Bulletin L–77a in connection with repayment of interest and special allowance overbillings.

Signature of Employee _____
Date _____
Lender Identification Number _____

BILLING CODE 4000-01-M

Attachment B

NOTICE

_____
Date

TO:

_____
Social Security Number

You have previously been notified that you are severely delinquent in repaying your Guaranteed Student Loan. This notice is our final effort to remedy this delinquency. You must contact us at _____ within

48 HOURS

Failure to act upon this notice will result in transfer of your account to the Federal Government.

_____
Official of Lender

_____
Title

Attachment C Certification of Borrower Location

As an employee or agent of _____
Name and Address of Lender

I hereby certify as follows:

1. On _____, I spoke with or received written communication
Date
from (copy attached):
(circle a or b)
(a) the borrower on the loan underlying this default claim; or
(b) a parent, spouse, or sibling of the borrower.

2. The borrower, parent, spouse, or sibling represented to me that the borrower's address and telephone number are -- _____
_____
Address and Telephone Number

3. Within 15 days thereafter, this institution sent the borrower a new repayment agreement along with a collection letter of the type described in section I.D.1.a.ii of Bulletin L-77a, dated January 7, 1983, to the address set out in '2)' above.

4. (Applicable only if 1(b), above, is used) The letter and agreement referenced in 3, above, has not been returned undelivered.

_____
Name of Borrower

_____
Borrower's SSN

_____
Signature of Employee or Agent

_____
Typed Name of Employee or Agent

_____
Title of Employee or Agent

_____
Date

_____
Lender Identification Number

CURE PROCEDURE

Attachment D Repayment of Interest Benefits and Special Allowance

NAME OF LENDER, I.D. NUMBER, ADDRESS (STREET, CITY, STATE, ZIP CODE)

EMPLOYER IDENTIFICATION NUMBER:

LENDER'S TELEPHONE NUMBER: ( )

(1) BILLING PERIOD (CHECK ONE)
1 ☐ ANNUAL
2 ☐ SEMIANNUAL
3 ☐ QUARTERLY

(2) BILLING PERIOD ENDING (CHECK ONE)
1 ☐ MARCH 31
2 ☐ JUNE 30
3 ☐ SEPTEMBER 30
4 ☐ DECEMBER 31

YEAR 19 ____

(3) METHOD (CHECK ONE)
1 ☐ ACTUAL ACCRUAL
2 ☐ AVERAGE DAILY BALANCE
3 ☐ AVERAGE QUARTERLY BALANCE

INTEREST ADJUSTMENTS (Enter only those Adjustments occurring as a result of Lender Bulletin #77a)

[X] DECREASED $ _____

SPECIAL ALLOWANCE ADJUSTMENTS

Loans made before October 1, 1981:

QTR. ENDING MM/DD/YY	%	AVERAGE PRINCIPAL BALANCE PREVIOUSLY REPORTED	AVERAGE PRINCIPAL BALANCE SHOULD HAVE BEEN REPORTED	DIFFERENCE IN AVERAGE PRINCIPAL BALANCE
/ /	9%			
	7%			
/ /	9%			
	7%			
/ /	9%			
	7%			
/ /	9%			
	7%			
/ /	9%			
	7%			
/ /	9%			
	7%			

Loans made on or after October 1, 1981:

/ /	14%			
	12%			
	9%			
	8%			
	7%			
/ /	14%			
	12%			
	9%			
	8%			
	7%			

NOTE: Do not submit this form concurrent with the submission of ED Form 799, "Lender's Request for Interest and Special Allowance." Lenders are required to maintain a copy of this form for their records.

GPO 896-420

[FR Doc. 85-21068 Filed 9-3-85; 8:45 am]
BILLING CODE 4000-01-C

Federal Register

Wednesday
September 4, 1985

Part V

Federal Emergency Management Agency

44 CFR Parts 59, 60, 61, 64, 66, 70, 72, and 75

National Flood Insurance Program; Final Rule

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 59, 60, 61, 64, 66, 70, 72, and 75

[Docket No. FEMA-FIA]

National Flood Insurance Program

AGENCY: Federal Insurance Administration (FIA), Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule revises the National Flood Insurance Program (NFIP) regulations dealing with flood plain management standards, risk premium rate zone designations, reimbursement for FEMA engineering review, flood insurance coverage, the Standard Flood Insurance Policy terms and provisions, and the sale of flood insurance.

EFFECTIVE DATE: January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Charles M. Plaxico, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., Washington, D.C. 20472; telephone number (202) 646-3422.

SUPPLEMENTARY INFORMATION: On April 15, 1985, FEMA published for comment in the **Federal Register** (Vol. 50, Page 14904) a proposed rule containing revisions to the National Flood Insurance Program (NFIP) which were the result of a continuing reappraisal of the NFIP from the standpoint of maintaining a business-like approach to the administration of the NFIP by emulating successful property insurance programs in the private sector while, at the same time, supporting the major FEMA goals of achieving greater administrative and fiscal effectiveness in the operation of the NFIP and encouraging sound flood plain management so that reductions in loss to life and property and in disaster expenditures can be realized. This reappraisal includes, in addition to the claims, coverage, rating, and sale of insurance component, the loss reduction (i.e., flood plain mangement) and risk assessment (i.e., mapping of flood hazard areas and flood-risk zones) components of the NFIP.

Probation

The proposed rule established in § 59.24 a probation procedure for participating communities that fail to adequately enforce flood plain management measures adopted to meet NFIP criteria. This procedure would provide FEMA with a means of formally notifying these communities that their flood plain management programs are regarded as not compliant. The proposed rule provided for an additional premium of $50.00 to be paid on all new or renewal policies issued for a year after the community is placed on probation and for successive one-year periods if the community remains on probation. Public comment was solicited on whether the proposed flat charge of $50 per policy or a percentage increase per policy would be more appropriate.

Twenty-seven comments specifically addressed probation. Sixteen of these comments clearly supported the concept of probation with a surcharge on grounds that this would help achieve community compliance with Program regulations and provide FEMA with enforcement options short of suspension of a community's eligibility. Six comments opposed probation with a surcharge for a variety of reasons. The other five comments were on some aspect of probation, but did not clearly indicate either support or opposition to the concept of probation.

Although there was strong overall support for probation with a surcharge, the comments varied as to the type of surcharge favored and the mechanics of imposing probation on a community. Six comments expressed the belief that communities needed more than the 30 days allotted in the proposed rule to correct deficiencies in their flood plain management programs and to remedy violations of their ordinances. Suggestions of appropriate time periods ranged from 45 to 180 days. Six comments suggested that FEMA notify each policyholder in the community prior to imposing the probation surcharge. Four comments suggested that a press release be issued to local media or that a legal notice be published. The overall concern expressed by these comments is that FEMA ensure that a community and its policyholders are fully aware of the impacts of probation and that the community has an opportunity to take the actions necessary to avoid probation.

FEMA's intent is to delegate the authority to impose probation to the ten FEMA Regional Directors. FEMA internal guidelines on community compliance and imposing probation (without a surcharge) already require that FEMA Regional staff visit a community, meet with local officials, and formally notify the community of the deficiencies in its program and of apparent violations. The Regional Office can proceed to probation only after its efforts to provide technical assistance and to consult with the community have failed to obtain compliance. The impending probation should be no surprise to those few communities that continue to be noncompliant at that point.

However, in order to meet more fully some of the concerns expressed in the comments, a number of revisions have been made in the final rule. The 30-day notice of impending probation has been lengthened to a 90-day compliance period, during which the community would have the opportunity to avoid probation by demonstrating compliance with Program requirements, or by correcting Program deficiencies and remedying all violations to the maximum extent possible. The addition of language on correcting Program deficiencies and remedying all violations to the maximum extent possible was added to clarify what is to be expected of communities. A Program deficiency is a defect in a community's flood plain management regulations or administrative procedures that impairs effective implementation of those flood plain management regulations. This language has also been incorporated elsewhere in § 59.24 (b) and (c) where appropriate. A requirement has been added that a press release be issued to local media explaining the probation. A change has been made to delay the effective date of the surcharge until October 1, 1986. This delay will enable FEMA to develop the procedures and contractual arrangements required to implement the surcharge in cooperation with its servicing contractor and also with the approximately 200 Write-Your-Own companies that are authorized to market NFIP flood insurance. FEMA will use the probation procedure without the surcharge in the interim. The surcharge will only apply in communities that are placed on probation on or after October 1, 1986. A final rule also provides that when the probation is to begin on or after October 1, 1986, all policyholders will be advised of the impending probation and the additional premium that will be charged on policies sold or renewed in the community during the period of probation. If at the end of the 90 days, the community has not demonstrated compliance or corrected Program deficiencies and remedied violations to the maximum extent possible, the probation will go in effect. The final rule also makes it clear that FEMA will proceed to suspension while a community is on probation if the community does not meet compliance deadlines that are established.

The proposed rule solicited public comments to ascertain which was the appropriate method of imposing the

additional premium during probation, the proposed $50 flat charge per policy or the alternative of a percentage increase in the premium of each policy. Twelve comments addressed this issue. Two of the comments supported the $50 surcharge. Comments that expressed general support of the probation concept and the proposed rule could also be regarded as supporting the $50 surcharge. Two comments suggested a lower surcharge on the grounds that $50 was excessive for low-income persons and tenants who generally have minimum premium policies. Seven comments, all from State agencies, suggested that a 25% surcharge would be fairer and more effective in obtaining compliance by communities. A number of these comments felt that the $50 surcharge would be too high for low-income persons, but too low to affect large-premium policyholders who generally are more influential in local government affairs. Two of these comments suggested that a 25% surcharge be combined with a $200 cap to ensure that there would be no exceptional hardships. One comment suggested a $50 floor to maximize pressure by policyholders on local officials.

Although many of these suggestions have merit, FEMA continues to believe that the flat surcharge is the best of the available alternatives. Because probation results from a community-wide problem, the beneficiaries of the NFIP in a particular community (i.e., all policyholders) should share equally in paying the additional premium during probation. Actions or inactions by local officials are ultimately the responsibility of all citizens in the community. The flat surcharge distributes the burden equally among the policyholder citizens. Furthermore, the intent of the surcharge is not punitive. It is intended rather to focus the attention of policyholders on the community's noncompliance and, by doing so, avoid suspension with its serious adverse impacts on those policyholders. It is also intended in part to compensate the NFIP for a portion of the increased liability that results from the community's noncompliance. Since it is not feasible to allocate this increased liability on a structure-by-structure basis, a flat rate is more appropriate. Also, a percentage charge would be more costly and difficult to administer, particularly in a systemic sense and would, therefore, add to the complexity and expense of the Program, to the detriment of the general taxpayer who subsidizes the Program.

In regard to the amount of the surcharge, FEMA agrees with those comments that argued that a $50 surcharge would be too high for some policyholders. As a result, the amount of the surcharge has been reduced to $25. FIA believes that a surcharge of this size will still be effective in drawing the attention of the policyholders to a community's noncompliance and obtaining their support for actions to avoid suspension.

Several comments suggested a different length of time for applying the additional premium charge, but FEMA believes the principle already referred to of having all the policyholders in a community share equally in the increased premium applies to the duration of the surcharges as well. Therefore, the final rule still provides for applying the charge in complete one-year periods. One comment opposed a probation procedure and a premium surcharge for policyholders until a community rating system, using positive and negative incentives, is established. FEMA is studying such a community rating system, and will continue to explore alternatives for implementing such a system, but believes the probation procedure in the proposed rule represents a first step in that direction and should not be delayed. In addition, FEMA believes that a community rating system will be of only limited effectiveness in obtaining compliance from those few communities that are candidates for probation. The main benefit of a community rating system would be to provide incentives that reward communities with exemplary flood plain management programs.

A number of other comments opposed the imposition of any type of surcharge in communities placed on probation. One community opposed the surcharge because it feared it lacked the authority to enforce its flood plain management regulations. FEMA believes that all eligible communities have the authority required to adopt and enforce regulations that meet NFIP criteria. The NFIP has a Community Assistance Program which is available to assist a community with various problems, including enforcement ones. Two comments opposed the surcharge because it would apply to compliant structures and existing structures as well as violations. As indicated above, FEMA believes that the surcharge should be applied to all who benefit from the NFIP in a community. Finally, one community thought that it was FEMA's responsibility to enforce NFIP criteria and that FEMA should not "pass the buck off on innocent citizens." The National Flood Insurance Act of 1968 clearly states that the community itself must adopt and enforce flood plain management measures as a condition of participation in the NFIP. FEMA's role is simply to monitor the community's compliance with that requirement. No community that adequately enforces its regulations will be placed on probation.

Biennial Report

The proposed rule contained a change to § 59.22(b)(2) which would require communities to submit a biennial rather than an annual report to FEMA regarding their NFIP participation. This proposed change was intended to revise NFIP criteria to reflect a decision that was made in 1981 to reduce the frequency of the report from annual to biennial. The reduced frequency would meet the objectives of the Paperwork Reduction Act by reducing burden hours for participating communities and also reflect the limited staff resources that were available at FEMA to process the reports. Three comments supported the change and four opposed it. Two of the comments that opposed the change were from States which felt that the reports were a valuable source of information on community flood plain development activities and should be conducted on an annual basis. One State recommended an annual report for large communities and a biennial report for small communities.

FIA uses this report to allocate resources and to identify and establish community priorities. The actual monitoring of community flood plain development is accomplished through other mechanisms. As a result, FEMA believes that a biennial report is sufficient given the resources available and the purposes to be achieved and will continue to require the report on a biennial cycle. However, FEMA is persuaded that, at some point in the future, circumstances may warrant the return to an annual cycle. As a result, this final rule allows FEMA to require the reports on either an annual or biennial cycle. A parallel change has been made to §§ 60.2(f) and 60.6(a)(6)(ii), which also refer to the annual report.

Elevated Building Definition

One commentator suggested that the first sentence of the definition of elevated building should be broken up into multiple sentences. Since breaking up the sentence into multiple sentences would necessitate repeating the substance of the definition for each category of zones along with the unique portion of the definition for each category, FEMA believes the sentence structure in the proposed rule is a better

editorial approach, but a change has been made in the sentence to improve the clarity.

This commentator also indicated that the meaning of "adequately anchored so as not to impair the structural integrity of the building" was unclear. The intent of the anchoring requirement in the NFIP Regulations has always been that whatever anchoring system is used must be sufficient to prevent damage to that anchoring system or to the building's support system and the elevated building itself. It has always been implied, though not stated, that the requirement extended only to floods of up to the magnitude of the base flood (the 100-year flood), which is consistent with the other requirements of the program, and this is reflected in the definition in this final rule.

Another comentator was concerned that the inclusion of Zones, B, C, X, and D, which are not special flood hazard zones, in the definition of elevated building might mean that there was an elevation requirement in those zones.

That is incorrect. The reason for including those zones in the definition was to provide a better basis for collecting loss data on elevated buildings in those zones so that FEMA could at some future time consider reducing rates for elevated buildings in those zones. Requiring the elevation of buildings in those zones is not contemplated; such elevation would be strictly voluntary.

Elevation Information

The proposed rule contained revisions to §§ 60.3(b)(5) and 60.3(e)(2) that make it clear that communities are to require building elevation information on all structures as evidence of flood plain management compliance, not merely for insurance purposes. Two comments strongly supported the change since it provided additional support for communities in requiring submission of elevation information by property owners. One comment supported the change but felt that the elevation certificate form that is distributed for the NFIP is overly complicated and time-consuming to complete. FEMA encourages communities to use the NFIP Elevation Certificate since the form also can be used for insurance rating. Other forms may not provide sufficient insurance information resulting in delays in the issuance of a policy and added expense to individual property owners. FEMA is in the process of revising the NFIP Elevation Certificate, and the revised form should address some of the concerns that were raised in this comment.

Floodproofing Certification

The proposed rule contained revisions to § 60.3(c)(4) which requires that, for floodproofed nonresidential structures, a registered engineer or architect certify that the design and methods of construction are in accordance with accepted practice for meeting the floodproofing standards in NFIP criteria. This provision was revised for clarity and for consistency with the new wording of § 60.3(e)(4), which requires a similar certification for structures built in V-zones.

One comment suggested that the engineer or architect certify that the completed structure was adequately floodproofed. The engineer or architect would have to make frequent on-site inspections of the structure during construction to make such a certification. FEMA believes that this would be necessarily brudensome in most instances. However, a community can adapt a requirement of this type if local circumstances warrant it, since it would be more restrictive than NFIP criteria.

The proposed rule also deleted § 60.3(c)(4)(ii) which allowed a community to submit a certified copy of a local regulation containing detailed floodproofing specifications in lieu of requiring certification by a registered engineer or architect. No community has received approval of such a regulation. One comment suggested retaining this option for use in large flat areas behind levees that have internal drainage problems but are not designated as special flood hazard areas. FEMA believes that the retention of the provision is unnecessary since NFIP criteria need not apply in areas not designated by FEMA as special flood hazard areas.

Changes to V-Zone Requirements

The proposed rule contained revisions to the requirement in § 60.3(e)(4) that a registered engineer or architect certify the design of all structures in V-zones (coastal high hazard areas). Three comments specifically addressed this change. One community believed that the requirement would impose an economic burden on the construction of low-income housing. However, this certification is not a new requirement and has been contained in NFIP criteria since 1976. The revision in the proposed rule should make the certifications more readily attainable since a registered engineer or architect must review and certify only the design and methods of construction of the structure. Another comment wished to exempt certain low-cost accessory structures from the certification requirement. Again, the basic certification requirement is in the existing regulations, so this comment is not relevant to the proposed rule. However, FEMA will review this requirement to determine if there are feasible options for these small, low-cost structures. Finally, one comment believed that the certification language was unclear and needed clarification but provided no suggestion or further details. FEMA has revised this provision to be consistent with the revisions to § 60.3(e)(5) which clarify wind and water loads associated with the base flood. This change may meet some of the concerns in this comment. Otherwise, FEMA believes that the language is sufficiently clear.

The proposed rule also contained more specific performance standards regarding the design and construction of breakaway walls built to enclose areas below the base flood elevation in V-zones. FEMA had received a number of requests over a several year period for these more definitive standards. The proposed rule allowed for the use of (1) open wood lattice work, (2) insect screening, or (3) breakaway walls of non-masonry construction that have a loading resistance of not less than 10 and no more than 20 pounds per square foot. Breakaway walls with a loading resistance of greater than 20 pounds per square foot would have to be certified by a registered engineer or architect. Finally, such enclosed space was not to be a "finished area," which was defined in § 59.1.

Of the five comments received on the breakaway wall provision, two supported the change without modification and three generally supported the change, but with modifications. One of the comments suggested that FEMA place an upper limit of 20 pounds per square foot on breakaway walls on the grounds that this requirement would be easier to administer. FEMA does not believe that imposing an upper limit of this type can be technically justified. Stronger breakaway walls can be built which will fail and not result in damage to the rest of the structure, particularly in the case of larger, more substantial structures. In addition, some building codes may not permit walls that will collapse under loads of less than 20 pounds per square foot. If a particular community wishes to place an upper limit on the strength of breakaway walls (such as 20 pounds per square foot), it is not precluded from doing so.

Another comment suggested that FEMA clarify the phrase "wind and water loads associated with the base

flood" by relating wind loads to established code requirements for wind hazards. In response to this comment, the final rule specifies that the wind load values to be used shall have a one percent chance of being equalled or exceeded in a given year (100-year mean recurrence interval). Winds of this frequency are commonly used as a design standard in building codes, and are the basis for building designs contained in FEMA's guidance document for coastal construction, "Coastal Construction Manual."

The last comment expressed concern that some building codes, particularly those based on American National Standards Institute (NSI) wind standards and including the North Carolina State Building Code, would require construction of walls with minimum strengths in excess of 20 pounds per square foot. It was believed that, in effect, this requirement would prohibit the use of breakaway walls in such situations. In response to these comments, FEMA consulted representatives of two major building code groups, a number of technical experts, and performed additional internal review and research on the breakaway wall requirement. Based on that review, FIA does not believe that further changes are warranted in response to this comment. The proposed and final rule rules do not prohibit the use of breakaway walls with design strengths greater than 20 pounds per square foot. However, buildings which utilize breakaway walls with such strength capacities will require additional care in designing the building's structural system to minimize the risk of building collapse or displacement. Accordingly, use of such wall strengths will require that the building design be certified by a registered professional engineer or architect.

In the final rule, the provision that all masonry breakaway walls be certified by a registered engineer or architect has been deleted. Additional research has shown that there are insufficient technical grounds for distinguishing masonry from non-masonry breakaway walls. In addition, for clarification, an upper limit is placed on the strength of all breakaway walls. These walls must collapse from water loads less than that of the base flood. The requirement has also been clarified to specify the types of damages from which the structure must be protected. These damages include collapse or displacement of the structure and other structural damage resulting from the effect of wind and water loads acting simultaneously on the building's components. These changes were also made to a similar provision in § 60.3(e)(4) which contains the basic elevation requirement for V-zone structures as well as the requirement that they be certified by a registered engineer or architect.

The proposed rule also required that spaces enclosed by breakaway walls not be a "finished area," which was defined in the proposed rule in § 59.1. FEMA's further review of the proposed rule identified a potential inconsistency between this definition of "finished area" and the definition of "lowest floor" in the existing regulations regarding what uses are permitted within such enclosures. To avoid this inconsistency, the definition of "finished area" has not been included in the final rule. Section 60.3(e)(5) has been revised in the final rule to state that spaces enclosed by breakaway walls are to be used solely for the parking of vehicles, building access, and storage. This is consistent with the definition of "lowest floor" in § 59.1. In addition the provisions of § 60.3(a)(4)(ii) would apply to such enclosed spaces.

All of paragraph (e) of § 60.3 was reprinted in the proposed rule due to adding V and VE zones. However, the only provisions of § 60.3 that were otherwise changed were paragraphs (e)(2), (e)(4), and (e)(5), which have been discussed above. Therefore, the comments on other provisions such as requirements that structures be located landward of the reach of mean high tide, the prohibition of new mobile homes except in existing mobile home parks and subdivisions, and the provision regarding the alteration of sand dunes and mangroves are not relevant to the proposed rule. However, FEMA has noted these suggestions and will consider them in its continual review of NFIP policies and regulations.

Flood Plain Management Provisions on Mobile Homes

The proposed rule contained a number of changes to the requirements for the placement and anchoring of mobile homes. The anchoring requirements in § 60.3(b)(8) would be revised to delete the specific performance standards related to over-the-top and frame ties and substitute a more general performance standard that requires that the mobile home be elevated and anchored to resist flotation, collapse and lateral movement. Provisions in § 60.3(c) (5) and (6) were revised to require that the lowest floor of the mobile home be elevated to or above the base flood level, but do not specify the elevation technique to be used. There were fourteen comments that addressed the mobile home changes. Twelve of the comments fully supported the proposed changes, mostly on the grounds that the more general performance standards eliminated conflicts with manufacturer's specifications and State and local codes. A number of the comments noted that publication of the FEMA manual "Manufactured Home Installation in Flood Hazard Areas" this fall should provide sufficient guidance on elevation and anchoring techniques. Thus, there was widespread support for the change, and no revisions have been made in the language in the proposed rule. One comment recommended an addition to § 60.1(d) that would permit States or communities to accept designs for specific structures at specific sites if certified by an registered engineer or architect. FEMA regards this suggestion as unnecessary since the general performance standards for mobile home anchoring and placement should provide sufficient flexibility to address the State's concern. One comment recommended the NFIP criteria require that the mobile home pads be elevated to or above the base flood level to provide access to the mobile home during a flood. FEMA regards this suggestion as desirable, but not feasible on a national scale due to the flood depths encountered in large numbers of communities. Allowance will continue to be made for other elevation techniques. However, any State or community is permitted by § 60.1(d) to adopt regulations that are more restrictive than NFIP criteria.

There were a number of suggestions in the comments for changes to NFIP mobile home requirements. Several comments argued that the prohibition of placement of mobile homes in V-zones except in existing mobile home parks and subdivisions was discriminatory and not justified. Several comments suggested that the provisions that "grandfather" existing mobile home parks and subdivisions be eliminated and all newly installed mobile homes be elevated to or above the base flood elevation. None of these changes were included or discussed in the proposed rule, so these comments are not relevant to the proposed rule. However, as indicated in the Supplemental Information in the proposed rule, these changes are being reviewed for possible inclusion in proposed rulemaking for FY 86.

Adoption by Communities

Two communities requested information on requirements and procedures for the adoption of

provisions in the final rule by NFIP communities. In accordance with § 60.7 of NFIP criteria, communities have six months from the effective date of any new regulation to revise their flood plain management ordinances to comply with those new regulations. Since the effective date of this final rule is January 1, 1986, local ordinances will have to be revised by July 1, 1986. NFIP regulations require that communities adopt regulations that meet NFIP minimum criteria as a condition of Program eligibility. Communities can also comply with Program requirements by adopting regulations that exceed these criteria. Most of the changes that are included in the final rule are less restrictive than or substantially the same as current requirements. As a result, communities, other than those which have V-zones, may already comply or require only minor changes to their ordinances to remain compliant. FEMA will mail copies of the final rule and additional instructions regarding adoption to all participating communities. FEMA Regional Offices will be available to provide assistance to communities in revising their ordinances.

Flood Risk Zones

Seven commentators responded to that portion of the proposed rule that addressed the mapping of flood hazard areas and flood risk zones. Four of these commentators either supported the replacement designations or stated they had no objection to their implementation.

One commentator suggested that Zones A, AO, and AH be added to the definitions of "Special Flood Hazard Area" and "Area of Special Flood Hazard." Since Zones A, AO, and AH are already in the definitions in § 59.1 of "Area of special flood hazard" and "Special hazard area," the suggested change is not needed.

One commentator observed that the floodway and the 500-year flood plain are valuable sources of information to communities as they pursue flood plain management activities and must not be left undelineated. FEMA will continue to delineate these items, as appropriate, when it prepares mapping of flood hazard areas and flood-risk zones. The 500-year flood plain will be delineated as the shaded portion of Zone X, and the floodway will be given greater visual emphasis by shading the crossing-hatching.

One commentator opposed the use of Zone X as a replacement designation for Zones B and C and stated that it is important to map users to be able to continue to distinguish between Zones B and C. Zone X will be both shaded and unshaded on the map. The shaded portion of Zone X will correspond to the former Zone B designation and the unshaded portion to the former Zone C. Therefore, it is not necessary to amend the Zone X designation since the distinction desired by this commentator will be obvious for all map users.

This final rule makes the following mapping changes, all of which were in the proposed rule. It makes a change in the flood-risk zone designations of Flood Insurance Rate Maps for consistency with a change in the tables made effective October 1, 1983, that collapsed the rates for Zones A1–30 to treat them as one zone for rating purposes and likewise collapsed the rates for Zones V1–30 to treat them as one zone for rating purposes. Similarly, the rates for Zones B and C were collapsed to treat them as one zone for rating purposes. This final rule gives Zone AE as a replacement designation for Zones A1–30, Zone VE as a replacement for Zones V1–30, and Zone X as a replacement for Zones B and C.

The new maps will continue to delineate the 500-year flood plain (shaded portion of Zone X) and the floodway. The replacement designations will be used on new maps, thus gradually replacing the current designations. This final rule also provides for Zone V, which is a zone designating a coastal high hazard area without water surface elevations.

Standard Flood Insurance Policy

The Standard Flood Insurance Policy (SFIP) of the NFIP currently distinguishes between a "mobile home" and a "doublewide mobile home", with mobile homes having to meet certain requirements in special flood hazard areas and in coastal high hazard areas to be eligible for flood insurance and not being eligible for replacement cost coverage. The proposed rule revised the definition of "doublewide mobile home" by adding quantitative criteria relating to the structure's dimensions.

Several comments on this proposed revision to the definition in the SFIP of the term "doublewide mobile home" suggested using a different term. As indicated in the Supplementary Information of the proposed rule, changes in mobile home terminology are being considered for possible proposed rulemaking in FY 1986. One comment suggested different quantitative criteria from those proposed. However, neither of the two trade associations commenting on this matter objected to the quantitative criteria proposed, and this final rule has the same doublewide mobile home definition as the proposed rule.

This final rule has the change that the proposed rule had in the flood plain management requirements for anchoring mobile homes. This change dropped the over-the-top and frame ties requirement in favor of a more general performance standard. The proposed rule did not contain a corresponding change in the SFIP provisions requiring over-the-top and frame ties or requiring that the placement of the mobile home otherwise met the community's flood plain management requirements as a condition for insuring mobile homes in Special Flood Hazard Areas unless the mobile home is one on a foundation continuously insured by the NFIP at the same site since September 30, 1982, although an editorial change was proposed to that provision. In the interest of better coordinating the treatment of mobile home anchoring by the flood plain management provisions and the insurance provisions of the NFIP, a change has been made in this final rule in the SFIP provisions to allow several options for mobile home anchoring.

In recognition of certain leases where a private individual leases land from the Federal Government with the lease holding the Federal Government harmless for flood damage it causes, the proposed rule provided for not covering such losses since the individual knowingly assumed that flooding risk. The only comment on this provision was one generally favoring it. It remains the same in this final rule as it was in the proposed rule.

The proposed rule provided the basis for insuring more than one building on a policy using a form approved by the Administrator. That provision has been clarified by referring to a form or a format.

Also, to clarify the intent of the NFIP not to cover bailees' goods, the Contents paragraph of the Property Covered section of the SFIP General Property Form (Appendix A(2) of Part 61) was revised in the proposed rule to make it clear that bailees' goods are not covered. A recent court decision held that bailees' goods were covered, so this revision would carry out the intent of the NFIP not to cover them. There were no objections to this provision, and it is the same in the final rule as it was in the proposed rule.

When a limitation of coverage for finished basements (and their contents) and for enclosures (and contents) beneath the lowest floor of elevated buildings was placed in effect on October 1, 1983, coverage was continued for certain equipment and other machinery vital to a building's intended

use. While oil tanks and well-water tanks were specified as being covered, there was no mention of the oil in an oil tank or the pump for a well-water tank. The proposed rule clarified that there is coverage for these items. It also specified that there is coverage for cisterns (and the water in them) despite this basement/elevated building limitation, inasmuch as cisterns are integral parts of the building in certain communities, particularly in the Virgin Islands, and often provide the only source of water for the building. One commentator suggested that the similar items of natural gas tanks and also pumps and/or tanks used in conjunction with solar energy systems be specified as covered in such areas. FEMA agrees that this is appropriate, and those items have been added in this final rule as covered in such areas.

In furtherance of loss prevention, as an insurance concept, and of hazard mitigation, which is one of the major goals of FEMA, an October 1, 1984, change in the SFIP made coverage available for sandbags under certain conditions. The proposed rule extended that development by also providing coverage for fill for temporary levees, pumps, and wood under the same conditions except that, for both sandbags and the new items proposed, the provision referring to the purpose of preserving the building at the premises after a flood loss was deleted. There were no comments on this provision, and it is the same in the final rule as it was in the proposed rule.

Another change in the SFIP effective October 1, 1984, was the addition of a provision for building coverage and one for contents coverage to make it clear that dwelling units in condominium buildings can only be covered, along with the policyholder's insurable tenant in common interest in property covered under any condominium association flood insurance coverage provided under the National Flood Insurance Act of 1968, or any Acts amendatory thereof, up to the statutorily permissible limits of coverage available for the insuring of single-family dwelling owners under the Act. The proposed rule added a provision making the same clarification for contents coverage involving non-residential units in a condominium building. There were no comments on this provision, and it is the same in this final rule as it was in the proposed rule.

A private sector insurer participating in the Write-Your-Own Program, under which the Standard Flood Insurance Policy may be issued by private sector insurers signatory to an Arrangement with the Federal Insurance Administrator, suggested that the specific amount of the probation additional premium charge not be stated in the policy so that if the amount should ever be changed in the future, the policy form would not have to be amended. FEMA agrees with this commentator that this change could avoid administrative costs so this final rule makes the change. As an extension of this approach of not stating dollar amounts in the SFIP, a change has also been made in this final rule to refer to "the minimum premium set forth in 44 CFR 61.10" instead of stating the dollar amount itself.

Fees for Conditional Approval of Map Changes

FEMA receives a large number of requests to review proposed projects to determine if they would qualify for map amendments and revisions upon their completion. Such proposed projects include flood plan fills, stream channelizations, levee construction, or other flood control projects. This service has led to the issuance of conditional Letters of Map Amendment (LOMAs) and conditional Letters of Map Revision (LOMRs) that provide FEMA assurance to individuals, developers, and communities that their projects would be accepted for map revision upon completion. The conditional LOMA and conditional LOMR are often needed by developers to obtain construction loans and building permits and attract prospective buyers. It should be noted that conditional LOMAs and LOMRs are not based on any limitations or deficiencies in the FEMA maps; rather they have come about in response to requests from individuals, developers, and communities for FEMA review and comment on proposed projects. Thus, to reduce expenses to the general taxpayer, FEMA developed the reimbursement procedure set forth in the proposed rule to allow for the recovery of costs associated with these actions. Under the procedure, an initial fee, the amount determined by the type of project, will be required to those seeking a conditional LOMA or conditional LOMR before any review commences. The initial fee represents the minimum cost required to review that type of project. FEMA will then determine the actual cost associated with the review of a particular project and the requestor will be billed for any additional costs incurred. In this way FEMA proposes to recover the entire cost associated with the review and processing of conditional LOMAs and conditional LOMRs.

FEMA determined that the costs associated with the technical review and administrative processing of a conditional LOMA or conditional LOMR request vary in proportion to the number of submittals required of an appellant to accurately show the effects of his proposed project, as well as with the type of project involved. An incomplete submittal, or one with significant problems in the technical analyses, takes significantly longer to process since it must be reviewed, an additional data request letter prepared and sent, and the new submittal re-reviewed. While administrative processing time varies between conditional LOMAs and conditional LOMRs, it does not differ significantly within each category of project. It was also determined that for each category of project, there are certain minimum review and processing elements common to all requests. These minimum review and processing costs were used to develop the initial fees for the various projects.

The conditional LOMAs were first categorized by the type of project. Each category was then examined and minimum review and processing times were determined for engineering review, engineering administration, word processing and quality control. This basic processing common to each type of project was then converted to a dollar amount using direct labor rates, overhead, and fee, which FEMA pays for each services.

The determination of review and processing time for conditional LOMAs was simplified in that there is a distinct difference between single-lot and multi-lot/subdivision requests. Administrative processing was the same for each, but engineering review time for multi-lot/subdivision requests was approximately double that for single-lot determinations The range of processing times for each type of LOMA was also narrower. The minimum times determined for each type were then converted to a dollar amount as described above.

The proposed rule was erroneously interpreted by several commentators to mean that FEMA will require reimbursement for all LOMAs and LOMRs. The fee applies only to conditional LOMAs and conditional LOMRs that are requested based on a proposed flood plain modification that could affect established flood mapping. Map appeals based on conditions existing at the time of the appeal will continue to be reviewed at no cost to the appellant.

Several commentators addressed the "open-endedness" of both the fees and the time frame for review and processing of a particular request. This final rule establishes a fee cap of $500 for conditional LOMAs and $1,500 for

conditional LOMRs that will not be exceeded without written authorization from the requestor. Requestors will be notified in writing when it is anticipated that a particular case would exceed the cap. Processing would be suspended pending receipt by FEMA of written authorization to proceed. Similarly, this final rule establishes time frames for a response from FEMA regarding the adequacy of the data submitted in support of a request and for comment by FEMA regarding the particular request.

Two comments dealt with the data requirements for conditional LOMA and conditional LOMR requests. FEMA has several documents, entitled *Conditions and Criteria*, that explain in general the information required in support of a request for a LOMA, LOMR, floodway revision, or map revision. With the exception of "as-built" plans of a completed project, the data requirements for conditional LOMAs and LOMRs and actual amendments and revisions are essentially the same and are covered by the various *Conditions and Criteria* documents. It is not possible to list detailed submission requirements for each type of project in these documents due to the unique engineering factors involved in different installations. FEMA does intend to expand its general submission requirements under 44 CFR Parts 65 and 70 in Fiscal Year 1986.

One commentator requested clarification on the information a community must submit to obtain an exemption from the fee. As addressed in § 72.5 of the proposed rule, exemptions apply to those Federal, State, and local government projects designed primarily to benefit the general public. A certification will be required from the Federal, State, or local government or agency that the particular project is for the public benefit and primarily intended for flood loss reduction to *existing development* in flood areas as opposed to planned flood plain development.

One commentator expressed concern that the proposed rule was not clear in defining payment responsibility. FEMA will bill the entity that prepares the original request. Communities involved in their own review and eventual transmittal of the request to FEMA would not be billed simply because they were the agency transmitting the request.

Two commentators felt the cost for a single-lot conditional LOMA was too high and along with others felt the initial fees in general were excessive. As already explained, the fees were determined through an analysis of the *minimum* processing and review times for the various types of requests and converted to dollar amounts using direct labor rates, overhead, and fee, which FEMA pays for these services.

Other commentators expressed concern that the rule could have the effect of discouraging development because of the fee requirements. It is not the intent of the rule to either discourage development or discourage the submittal of proposed projects for review. Because requestors need FEMA comment on their proposed projects to satisfy other requirements, and only they will benefit from this service, FEMA developed the reimbursement procedure. In this way, the general taxpayer is not paying for FEMA review of a project initiated by a private entity.

The final rule contains the following changes in regard to fees for conditional LOMA and LOMR review from the proposed rule of April 15, 1985:

1. Section 72.1 clarifies that there is no fee requirement for final LOMAs and LOMRs that correct errors in the original FIS and FIRM or are otherwise requested on the basis of existing flood plain conditions.

2. Section 72.4 clarifies the group to be billed and establishes a fee cap for conditional LOMAs and conditional LOMRs that would not be exceeded without written authorization from the requestor. Section 72.4 has also been modified to address the time frame for response by FEMA to a conditional LOMA or conditional LOMR request.

3. Section 72.5 clarifies the conditions by which a Federal, State, or local government or agency would be exempt from the fees.

In addition to the changes discussed above that this final rule made to the proposed rule, a few changes of an editorial nature were also made.

FEMA has determined, based upon Environmental Assessments, that this rule does not have significant impact upon the quality of the human environment. As a result, an Environment Impact Statement will not be prepared. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

Two comments questioned the finding that the proposed rule would not have a significant economic impact on a substantial number of small entities. One comment from a State felt that the provisions on probation with a surcharge would have a significant impact on a very great number of communities in that State. One community felt that the proposed rule and, in particular, the probation provision, would have a severe effect on that community, which is a small entity. This community also commented on existing NFIP provisions that were not changed in the proposed rule and, as a result, have no impact for the purposes of this rule. In regard to probation, FEMA's experience has been that most communities are substantially compliant with NFIP criteria. During a typical year, FEMA staff will visit and review the actions of approximately 1,000 of the NFIP's 17,600 participating communities. Generally, less than 10% of these communities will have serious compliance problems and the majority of these problems will be resolved through the provision of technical assistance and through consultation with local officials. It is likely that only a very small number of communities will be on probation at any given time. No community that fulfills its commitment to enforce its flood plain management regulations will be placed on probation. In addition, the NFIP remains a voluntary program. Any community that does not wish to adopt and enforce adequate flood plain management measures as required by the National Flood Insurance Act of 1968 has the option to withdraw from the NFIP. Thus, this rule does not have a significant economic impact on a substantial number of small entities and has not undergone regulatory flexibility analysis.

This rule is not a "major rule" as defined in Executive Order 12291, dated February 1981, and, hence, no regulatory analysis has been prepared.

The collection of information requirements contained in this rule were submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Parts 59, 60, 61, 64, 66, 70, 72, and 75

Flood insurance, Flood plains, Intergovernmental relations.

Accordingly, 44 CFR Chapter 1, Subchapter B is amended as follows:

PART 59—GENERAL PROVISIONS

1. The authority citation for Part 59 is revised as set forth below and the authority citations following all the sections in Part 59 are removed.

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 59.1 [Amended]

2. Section 59.1 is amended in the following particulars:

a. By removing the phrase "A1–99" and adding in its place the phrase "A1–30, AE, A99" in the definitions of "Area of special flood hazard" and "Special hazard area".

b. By removing the phrase "or V1–V30" and adding in its place the phrase "V1–30, VE, or V" in the definition of "Area of special flood hazard".

c. By adding after the phrase "V1–30" the phrase ", VE, or V" in the definition of "Coastal high hazard area".

d. By removing the phrase "V1–30," and adding in its place the phase "V1–30, VE, V," in the definition of "Special hazard area".

e. By adding, alphabetically, a definition of "Breakaway wall" to read as follows:

* * * * *

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building of supporting foundation system.

* * * * *

f. By revising the definition of "Elevated Building" to read as follows:

* * * * *

"*Elevated building*" means a non-basement building (i) built, in the case of a building in Zones A1–30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1–30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1–30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1–30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of § 60.3(e)(5).

* * * * *

g. In the definition of " 'Flood' or 'Flooding' ", paragraph (a)(3) is amended by removing "or precipitated by accumulations of water on or under the ground." and adding in its place the phrase "by flooding as defined in paragraph (a)(2) above and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.".

h. By removing the phrase "or under" in the first sentence of the definition of "Mudslide.".

§ 59.22 [Amended]

3. Section 59.22 is amended by revising paragraph (b)(2) to read as follows:

* * * * *

(b) * * *

(2) Designate the official responsible to submit a report to the Administrator concerning the community participation in the Program, including, but not limited to the development and implementation of flood plain management regulations. This report shall be submitted annually or biennially as determined by the Administrator.

* * * * *

4. Section 59.24 is amended by removing paragraphs (b) and (c) and by adding paragraphs (b) through (g) to read as follows:

§ 59.24 Suspension of community eligibility.

* * * * *

(b) A community eligible for the sale of flood insurance which fails to adequately enforce flood plain management regulations meeting the minimum requirements set forth in §§ 60.3, 60.4 and/or 60.5 shall be subject to probation. Probation shall represent formal notification to the community that the Administrator regards the community's flood plain management program as not compliant with NFIP criteria. Prior to imposing probation, the Administrator (1) shall inform the community upon 90 days prior written notice of the impending probation and of the specific program deficiencies and violations relative to the failure to enforce, (2) shall, at least 60 days before probation is to begin, issue a press release to local media explaining the reasons for and the effects of probation, and (3) when the probation is to begin on or after October 1, 1986, shall, at least 90 days before probation is to begin, advise all policyholders in the community of the impending probation and the additional premium that will be charged, as provided in this paragraph, on policies sold or renewed during the period of probation. During this 90-day period the community shall have the opportunity to avoid probation by demonstrating compliance with Program requirements, or by correcting Program deficiencies and remedying all violations to the maximum extent possible. If, at the end of the 90-day period, the Administrator determines that the community has failed to do so, the probation shall go into effect. Probation may be continued for up to one year after the community corrects all Program deficiencies and remedies all violations to the maximum extent possible. Flood insurance may be sold or renewed in the community while it is on probation. Where a policy covers property located in a community placed on probation on or after October 1, 1986, an additional premium of $25.00 shall be charged on each such policy initially issued, based upon the submission by the applicant of an application for flood insurance, or renewed, based upon the policyholder's response to a turn-around renewal premium notice or policyholder application notice, during the one-year period beginning on the date the community is placed on probation and during any successive one year periods during which the community remains on probation for any part thereof.

(c) A community eligible for the sale of flood insurance which fails to adequately enforce its flood plain management regulations meeting the minimum requirements set forth in §§ 60.3, 60.4 and/or 60.5 and does not correct its Program deficiencies and remedy all violations to the maximum extent possible in accordance with compliance deadlines established during a period of probation shall be subject to suspension of its Program eligibility. Under such circumstances, the Administrator shall grant the community 30 days in which to show cause why it should not be suspended. The Administrator may conduct a hearing, written or oral, before commencing suspensive action. If a community is to be suspended, the Administrator shall inform it upon 30 days prior written notice and upon publication in the **Federal Register** under Part 64 of this subchapter of its loss of eligibility for the sale of flood insurance. In the event of impending suspension, the Administrator shall issue a press release to the local media explaining the reasons and effects of the suspension. The community's eligibility shall only be reinstated by the Administrator upon his receipt of a local legislative or executive measure reaffirming the community's formal intent to adequately enforce the flood plain management requirements of this subpart, together with evidence of action taken by the community to

correct Program deficiencies and remedy to the maximum extent possible those violations which caused the suspension. In certain cases, the Administrator, in order to evaluate the community's performance under the terms of its submission, may withhold reinstatement for a period not to exceed one year from the date of his receipt of the satisfactory submission or place the community on probation as provided for in paragraph (b) of this section.

(d) A community eligible for the sale of flood insurance which repeals its flood plain management regulations, allows its regulations to lapse, or amends its regulations so that they no longer meet the minimum requirements set forth in §§ 60.3, 60.4 and/or 60.5 shall be suspended from the Program. If a community is to be suspended, the Administrator shall inform it upon 30 days prior written notice and upon publication in the Federal Register under Part 64 of this subchapter of its loss of eligibility for the sale of flood insurance. The community eligibility shall remain terminated after suspension until copies of adequate flood plain management regulations have been received and approved by the Administrator.

(e) A community eligible for the sale of flood insurance may withdraw from the Program by submitting to the Administrator a copy of a legislative action that explicitly states its desire to withdraw from the National Flood Insurance Program. Upon receipt of a certified copy of a final legislative action, the Administrator shall withdraw the community from the Program and publish in the Federal Register under Part 64 of this subchapter its loss of eligibility for the sale of flood insurance. A community that has withdrawn from the Program may be reinstated if its submits the application materials specified in § 59.22(a).

(f) If during a period of ineligibility under paragraphs (a), (d), or (e) of this section, a community has permitted actions to take place that have aggravated existing flood plain, mudslide (i.e., mudflow) and/or flood related erosion hazards, the Administrator may withhold reinstatement until the community submits evidence that it has taken action to remedy to the maximum extent possible the increased hazards. The Administrator may also place the reinstated community on probation as provided for in paragraph (b) of this section.

(g) The Administrator shall promptly notify the servicing company and any insurers issuing flood insurance pursuant to an arrangement with the Administrator of those communities whose eligibility has been suspended or which have withdrawn from the program. Flood insurance shall not be sold or renewed in those communities. Policies sold or renewed within a community during a period of ineligibility are deemed to be voidable by the Administrator whether or not the parties to sale or renewal had actual notice of the ineligibility.

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

5. The authority citation for Part 60 is revised to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 60.2 [Amended]

6. Section 60.2 is amended by adding in paragraph (f) after the word "annual" both times it appears the phrase "or bienial".

§ 60.3 [Amended]

7. Section 60.3 is amended in the following particulars:

a. By adding after "FHBM" the phrase "or FIRM" in the following paragraphs: (b) introductory text, (b)(1), (b)(2), (b)(5), and (b)(9).

b. By removing in paragraph (b)(5) the words "For the purpose of the determination of applicable flood insurance risk premium rates within" and adding in their place the word "within".

c. By revising paragraph (b)(8) to read as follows:

* * * * *

(b) * * *

(8) Require that all mobile homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, mobile homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

* * * * *

d. By removing in paragraph (c)(1) the word "unnumbered" and adding in its place the phrase ", AE zones,".

e. By adding after the phrase "A1–30" the phrase ", AE" in the following paragraphs: (c)(2) and (c)(3).

f. By revising paragraphs (c)(4), (c)(5), and (c)(6) to read as follows:

* * * * *

(c) * * *

(4) Provide that where a non-residential structure is intended to be made watertight below the base flood level, (i) a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of (c)(3)(ii) or (c)(8)(ii) of this section, and (ii) a record of such certificates which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained with the official designated by the community under § 59.22(a)(9)(iii);

(5) Require that all mobile homes to be placed within Zones A1–30 and AE on the community's FIRM in new mobile home parks and mobile home subdivisions, in expansions to existing mobile home parks and mobile home subdivisions, and in existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced, have the lowest floor of the mobile home elevated to or above the base flood level.

(6) Require that all mobile homes to be placed within Zones A1–30 and AE on the community's FIRM, which are not to be placed into a mobile home park or mobile home subdivision, have the lowest floor of the mobile home elevated to or above the base flood level.

* * * * *

g. By adding after the phrase "A1–30" the phrase "and AE" in paragraph (c)(10).

h. In paragraph (d) by adding after the phrase "A1–30" the phrase "and/or AE" and by removing the phrase "A99 zones and unnumbered" and adding in its place the phrase ", AH zones, A99 zones, and".

i. By removing the phrase "(c)(9)" and adding in its place the phrase "(c)(11)" in paragraph (d)(1).

j. By revising paragraph (e) to read as follows:

* * * * *

(e) When the Administrator has provided a notice of final base flood elevations within Zones A1–30 and/or AE on the community's FIRM and, if appropriate, has designated AH zones, AO zones, A99 zones, and A zones on the community's FIRM, and has identified on the community's FIRM coastal high hazard areas by designating

Zones V1–30, VE, and/or V, the coummunity shall:

(1) Meet the requirements of paragraphs (c)(1) through (c)(11) of this section;

(2) Within Zones V1–30, VE, and V on a community's FIRM, (i) obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures, and whether or not such structures contain a basement, and (ii) maintain a record of all such information with the official designated by the community under § 59.22(a)(9)(iii);

(3) Provide that all new construction within Zones V1–30, VE, and V on the community's FIRM is located landward of the reach of mean high tide;

(4) Provide that all new construction and substantial improvements in Zones V1–30 and VE, and also Zone V if base flood elevation data is available, on the community's FIRM, are elevated on pilings and columns so that (i) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level; and (ii) the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equalled or exceeded in any given year (100-year mean recurrence interval). A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of (i) and (ii) of this paragraph.

(5) Provide that all new construction and substantial improvements within Zones V1–30, VE, and V on the community's FIRM have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

(i) breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and,

(ii) the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Maximum wind and water loading values to be used in this determination shall each have one percent chance of being equalled or exceeded in any given year (100-year mean recurrence interval).

Such enclosed space shall be useable solely for parking of vehicles, building access, or storage.

(6) Prohibit the use of fill for structural support of buildings within Zones V1–30, VE, and V on the community's FIRM;

(7) Prohibit the placement of mobile homes, except in existing mobile homes parks and mobile home subdivisions, within Zones V1–30, VE, and V on the community's FIRM;

(8) Prohibit man-made alteration of sand dunes and mangrove stands within Zones V1–30, VE, and V on the community's FIRM which would increase potential flood damage.

§ 60.6 [Amended]

8. Section 60.6 is amended by adding in (a)(6)(ii) after the word "annual" the phrase "or biennial".

§ 60.22 [Amended]

9. Section 60.22 is amended by adding after the phrase "V1–30" the phrase ", VE, and V" in paragraph (c)(14) and by removing the phrase "and V1–30" and adding in its place the phrase ", AE, V1–30, and VE" in paragraph (c)(15).

PART 61—INSURANCE COVERAGE AND RATES

10. The authority citation for Part 61 is revised as set forth below and the authority citations following all the sections in Part 61 are removed.

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 61.3 [Amended]

11. Section 61.3 is amended by adding to the end of the third sentence the phrase ", unless application to cover more than one building is made on a form or in a format approved for that purpose by the Administrator".

§ 61.4 [Amended]

12. Section 61.4 is amended by adding paragraph (e) to read as follows:

* * * * *

(e) The policy does not cover loss to any building or contents located on property leased from the Federal Government, arising from or incident to the flooding of the property by the Federal Government, where the lease expressly holds the Federal Government harmless, under flood insurance issued under any Federal Government program, from loss arising from or incident to the flooding of the property by the Federal Government.

§ 61.5 [Amended]

13. Section 61.5 is amended in the following particulars:

a. By revising paragraph (f)(8) to read as follows:

* * * * *

(f) * * *

(8) A mobile home located or placed within a FEMA designated Special Flood Hazard Area that is not anchored and affixed to a permanent site to resist flotation, collapse, or lateral movement (i) by over-the-top or frame ties to ground anchors or (ii) in accordance with manufacturer's specifications or (iii) in compliance with the community's flood plain management requirements, unless it is a mobile home on a foundation continuously insured by the National Flood Insurance Program at the same site at least since September 30, 1982.

* * * * *

b. By removing from paragraph (f)(9) the phrase "V1–V30" and adding in its place the phrase "V1–30, VE, and V".

c. By removing from paragraph (f)(10) the phrase "oil tanks," and adding in its place the phrase "well-water tank pumps, oil tanks and the oil in them, cisterns and the water in them, natural gas tanks, pumps and/or tanks used in conjunction with solar energy systems,".

d. By removing in paragraph (h)(1)(v) the amount "$50.00" and adding in its place the phrase "the minimum premium set forth in § 61.10".

§ 61.6 [Amended]

14. Section 61.6 is amended by revising the chart in paragraph (a) to read as follows:

(a) * * *

	Regular Program		
	Emergency Program 1		
	First layer	Second layer	Total amount available
Single family residential			
Except in Hawaii, Alaska, Guam, U.S. Virgin Islands....	35,000	150,000	185,000
In Hawaii, Alaska, Guam, U.S. Virgin Islands.....	50,000	2 150,000	185,000
Other residential			
Except in Hawaii, Alaska, Guam, U.S. Virgin Islands....	100,000	150,000	250,000
In Hawaii, Alaska, Guam, U.S. Virgin Islands.....	150,000	3 150,000	250,000
Small business.....	100,000	150,000	250,000
Churches and other properties.....	100,000	100,000	200,000
Contents			
Residential.....	10,000	50,000	60,000
Small business.....	100,000	200,000	300,000
Churches, other properties (per unit).....	100,000	100,000	200,000

1 NOTE: Only first layer available under Emergency Program.
2 NOTE: Add to 35,000.
3 NOTE: Add to 100,000.

* * * * *

§ 61.11 [Amended]

15. Section 61.11 is amended by adding in paragraph (c) after the words "new policy" the words "or added coverage or increase in the amount of coverage".

§ 61.16 [Added]

16. Section 61.16 is added to Part 61 to read as follows:

§ 61.16 Probation additional premium.

The additional premium charged pursuant to § 59.24(b) on each policy sold or renewed within a community that has been placed on probation on or after October 1, 1986, is $25.00.

Appendix A(1) of Part 61—[Amended]

17. Appendix A(1) of Part 61, referenced at § 61.13, Standard Flood Insurance Policy, is amended in the following particulars:

a. In Article II—Definitions, the definition of "Building" is amended by adding to the end of the last sentence the phrase ", unless application to cover more than one building is made on a form or in a format approved for that purpose by the Administrator".

b. In Article II—Definitions, the definition of "Doublewide Mobile Home" is amended by adding after the words "permanent buiding" and before the semi-colon the words "and which when so assembled is at least 16 feet wide with an area within its perimeter walls of at least 600 square feet".

c. In Article II—Definitions, the definition of "Policy" is amended by adding to the end of the last sentence the phrase ", unless application to cover more than one building is made on a form or in a format approved for that purpose by the Administrator".

d. In Article II—Definitions, a definition of "Probation additional premium" is added, alphabetically, to read as follows:

* * * * *

"Probation additional premium" means a flat charge per policy term paid by the Insured on all new and renewal policies issued covering property in a community that has been placed on probation under the provisions of 44 CFR 59.24 on or after October 1, 1986.

* * * * *

e. In Article III—Losses Not Covered, the opening clause beginning "We only . . ." is amended by adding after the word "by" and before the word "flood" the phrase "or from".

f. In Article III—Losses Not Covered, paragraph A.2 is revised to read as follows:

* * * * *

2. Loss caused (i) by rain, snow, sleet, hail or water spray; or (ii) by freezing, thawing, the pressure or weight of ice or water, sewer backup or seepage of water unless your insured property has been, at the same time, damaged by a flood.

* * * * *

g. In Article III—Losses Not Covered, paragraph A.3 is amended by removing the word "or" between the words "Water" and "moisture" and adding a comma in its place and by adding the phrase "or mudslide (i.e., mudflow)" after the word "moisture".

h. In Article III—Losses Not Covered, paragraph B.1 is amended by adding between the word "of" and the word "sandbags" the phrase "(i)"; by adding between the phrase "with them," and the phrase "for the purpose" the following: "(ii) fill for temporary levees, (iii) pumps, and (iv) wood, all"; by removing the phrase "and preserving the building at the premises after a flood loss"; and by adding between the phrase "loss in an" and the word "amount" the word "aggregate".

i. In Article III—Losses Not Covered, paragraph B is amended by adding paragraphs 6 and 7 to the end thereof to read as follows:

* * * * *

6. Loss caused by or resulting from power, heating or cooling failure, unless such failure results from physcial damage to power, heating or cooling equipment situated on premises where the insured property is located, caused by the peril insured against.

7. Loss to any building or contents located on property leased from the Federal Government, arising from or incident to the flooding of the property by the Federal Government, where the lease expressly holds the Federal Government harmless, under flood insurance issued under any Federal Government program, from loss arising from or incident to the flooding of the property by the Federal Government.

j. In Article IV—Property Covered, the heading is amended by adding "(Subject to 'Property Not Covered' Provisions)" as a second line of heading.

k. In Article IV—Property Covered, paragraph C is amended by removing the comma between the word "art" and the word "glass" and by adding a closing parenthesis between the phrase "antique silver" and the following comma.

l. In Article V—Property Not Covered, paragraph B is revised to read as follows:

* * * * *

B. A building, and its contents, located seaward of mean high tide, or entirely in, on, or over water, if the building was newly constructed or substantially improved on or after October 1, 1982;

* * * * *

m. In Article V—Property Not Covered, paragraph F is amended by removing the phrase "oil tanks," and adding in its place the phrase "well-water tank pumps, oil tanks and the oil in them, cisterns and the water in them, natural gas tanks, pumps and/or tanks used in conjunction with solar energy systems,".

n. In Article V—Property Not Covered, paragraph H is revised to read as follows:

H. A mobile home located or placed within a FEMA designated Special Flood Hazard Area that is not anchored and affixed to a permanent site to resist flotation, collapse, or lateral movement (i) by over-the-top or frame ties to ground anchors or (ii) in accordance with manufacturer's specifications or (iii) in compliance with the community's flood plain management requirements, unless it is a mobile home on a foundation continuously insured by the National Flood Insurance Program at the same site at least since September 30, 1982.

o. In Article V—Property Not Covered, paragraph J is amended by removing the phrase "V1–V30" and adding in its place the phrase "V1–30, VE, and V".

p. In Article VII—Replacement Cost Provisions, paragraph I is added to read as follows:

* * * * *

I. If the community in which your property is located has been converted from the Emergency Program to the Regular during the current policy term, then these Replacement Cost Provisions shall be applied based on the maximum amount of insurance available under the National Flood Insurance Program at the beginning of the current policy term instead of at the time of loss.

q. In Article VIII—General Conditions and Provisions, paragraph C is amended by adding at the end of the first sentence a sentence to read as follows:

* * * In other words, if you obtain additional flood insurance to cover the structure insured by this policy beyond that obtained under the authority of the National Flood Insurance Act of 1968, as amended, then you must acquire the maximum amount of available flood insurance under said Act in order to avoid the imposition of proration as described in the preceding sentence.

* * * * *

r. In Article VIII—General Conditions and Provisions, paragraph F.1.e. is revised by removing the amount "$50.00" and adding in its place the phrase "the minimum premium set forth in 44 CFR 61.10".

s. In Article VIII—General Conditions and Provisions, paragraph F.2.(ii)a is amended by removing in the last sentence the comma after the word "year" and adding in its place a closing parenthesis, by removing the closing parenthesis before the semi-colon, and by adding the word "or" after the semi-colon.

t. In Article VIII—General Conditions and Provisions, paragraph O is amended by removing the word "Mortgagee" in the heading and adding in its place the word "Mortgage".

Appendix A(2) of Part 61—[Amended]

18. Appendix A(2) of Part 61, referenced at § 61.13, Standard Flood Insurance Policy, is amended in the following particulars:

a. That part of the heading of Appendix A(2) that is enclosed in brackets is revised to read as follows:

* * * * *

[Issued Pursuant to the National Flood Insurance Act of 1968, or Any Acts Amendatory Thereof, and Applicable Federal Regulations in Title 44 of the Code of Federal Regulations, Subchapter B]

* * * * *

b. In the DEFINITIONS section, the definition of "Building" is amended by adding to the end of the last sentence the phrase ", unless application to cover more than one building is made on a form or in a format approved for that purpose by the Administrator".

c. In the DEFINITIONS section, the definition of "Doublewide Mobile Home" is amended by removing the word "an" and adding in its place the word "and" and by adding after the words "permanent building" and before the semi-colon the words "and which when so assembled is at least 16 feet wide with an area within its perimeter walls of at least 600 square feet".

d. In the DEFINITIONS section, the definition of "Policy" is amended by adding to the end of the last sentence the phrase ", unless application to cover more than one building is made on a form or in a format approved for that purpose by the Administrator".

e. In the DEFINITIONS section, a definition of "Probation additional premium" is added, alphabetically, to read as follows:

* * * * *

"Probation additional premium" means a flat charge per policy term paid by the Insured on all new and renewal policies issued covering property in a community that has been placed on probation under the provisions of 44 CFR 59.24 on or after October 1, 1986.

* * * * *

f. In the PERILS EXCLUDED section, paragraph A is amended by adding a comma between the word "water" and the word "moisture" in item (3).

g. In the PERILS EXCLUDED section, paragraph F is amended by removing the phrase "purpose of sandbags" and adding in its place the phrase "purchase of (i) sandbags"; by adding between the phrase "with them," and the phrase "for the purpose of saving" the following: "(ii) fill for temporary levees, (iii) pumps, and (iv) wood, all"; by removing the phrase "and preserving the building at the premises after a flood loss"; and by adding between the phrase "loss in an" and the word "amount" the word "aggregate".

h. In the PERILS EXCLUDED section, paragraph K is added to read as follows:

* * * * *

k. To any building or contents located on property leased from the Federal Government, arising from or incident to the flooding of the property by the Federal Government, where the lease expressly holds the Federal Government harmless, under flood insurance issued under any Federal Government program, from loss arising from or incident to the flooding of the property by the Federal Government.

i. In the PROPERTY COVERED section, the heading is amended by adding "(Subject to 'Property Not Covered' Provisions)" as a second line of heading.

j. In the PROPERTY COVERED section, paragraph B.1 is amended by removing the semi-colon between the word "description" and the word "furniture" and adding in its place a comma and by adding to the end of paragraph B.1 the following sentence: "Bailees' goods are specifically excluded from coverage under this policy."

k. In the PROPERTY COVERED section, paragraph B is amended by adding paragraph 5 to read as follows:

* * * * *

5. In the case of contents owned by the Insured in a condominium building, as a condominium unit owner, as well as in common with other condominium unit owners, should the amount of insurance collectible under this policy for a loss, when combined with any recovery available to the Insured as a tenant in common under any condominium association flood insurance coverage provided under the Act for the same loss, exceed the statutorily permissible limits of contents coverage available under the Act for the insuring of risks of the class (residential, nonresidential, or small business) of the Insured, then the limits of contents coverage under this policy shall be reduced in regard to that loss by the amount of such excess.

* * * * *

l. In the PROPERTY NOT COVERED section, paragraph B is revised to read as follows:

* * * * *

B. A building, and its contents, located seaward of mean high tide, or entirely in, on, or over water, if the building was newly constructed or substantially improved on or after October 1, 1982.

* * * * *

m. In the PROPERTY NOT COVERED section, paragraph E is amended by removing the phrase "equipment; and business property." and adding in its place the phrase "equipment.".

* * * * *

n. In the PROPERTY NOT COVERED section, paragraph F is amended by removing the phrase "oil tanks,

furnaces", and adding in its place the phrase "well-water tank pumps, oil tanks and the oil in them, cisterns and the water in them, natural gas tanks, pumps and/or tanks used in conjunction with solar energy systems, furnaces, hot water heaters, clothes washers and dryers, food freezers, air conditioners,".

o. In the PROPERTY NOT COVERED section, paragraph H is revised to read as follows:

A mobile home located or placed within a FEMA designated Special Flood Hazard Area that is not anchored and affixed to a permanent site to resist flotation, collapse, or lateral movement (i) by over-the-top or frame ties to ground anchors or (ii) in accordance with manufacturer's specifications or (iii) in compliance with the community's flood plain management requirements, unless it is a mobile home on a foundation continuously insured by the National Flood Insurance Program at the same site at least since September 30, 1982.

p. In the PROPERTY NOT COVERED section, paragraph J is amended by removing the phrase "V1–V30" and adding in its place the phrase "V1-30, VE, and V".

q. In the General Conditions and Provisions section, paragraph C is amended by removing "Insured" in the first sentence and adding in its place "Insurer" and by adding at the end of the first sentence a sentence to read as follows:

* * * * *

In other words, if the Insured obtains additional flood insurance to cover the structure insured by this policy beyond that obtained under the authority of the National Flood Insurance Act of 1968, as amended, then the Insured must acquire the maximum amount of available flood insurance under said Act in order to avoid the imposition of proration as described in the preceding sentence.

* * * * *

r. In the General Conditions and Provisions section, paragraph E.1.e. is revised by removing the amount "$50.00" and adding in its place the phrase "the minimum premium set forth in 44 CFR 61.10".

s. In the General Conditions and Provisions section, paragraph M is amended by removing the word "Mortgagee" in the heading and adding in its place the word "Mortgage".

t. The IN WITNESS WHEREOF clause and the signature lines appearing after paragraph V of the GENERAL CONDITIONS AND PROVISIONS section and before Endorsement 1 are revised to read as follows:

IN WITNESS WHEREOF, the Insurer has executed and attested these presents.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

19. The authority citation for Part 64 continues to read as set forth below and the authority citations following all the sections in Part 64 are removed.

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 64.3 [Amended]

20. Section 64.3 is amended in the following particulars:

a. In the chart in paragraph (a)(1) by removing the phrase "A1–99" and adding in its place the phrase "A1–30, AE" and by adding after this amended entry in the chart the following entry:

A99	Area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes.

b. In the chart in paragraph (a)(1) by adding after the "AH" entry the following entry:

V	Area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area).

c. In the chart in paragraph (a)(1) by adding after the phrase "V1–30" the phrase ", VE" and by adding in this entry in the chart after "flood hazards," the words "with water surface elevations determined and".

d. In the chart in paragraph (a)(1) by adding both after the phrase "B" and after the phrase "C" the phrase ", X".

e. In paragraph (b), by removing the phrase "A1–99" and adding in its place the phrase "A1–30, AE, A99" and by adding after the phrase "V1–30," the phrase "VE, V,".

PART 66—CONSULTATION WITH LOCAL OFFICIALS

21. The authority citation for Part 66 is revised as set forth below and the authority citations following all the sections in Part 66 are removed.

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 66.1 [Amended]

22. Section 66.1 is amended by removing the phrase "A1–99 and" and adding in its place the phrase "A1–30, AE, AH, AO" and by adding after the phrase "V1–30" the phrase ", and VE".

PART 70—PROCEDURE FOR MAP CORRECTION

23. The authority citation for Part 70 is revised as set forth below and the authority citations following all the sections in Part 70 are removed.

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978; E.O. 12127.

§§ 70.1, 70.3, 70.4, and 70.5 [Amended]

24. Part 70 is amended by removing the phrase "A1–99" and adding in its place the phrase "A1–30, AE, AH, A99" in the following sections: §§ 70.1, 70.3(a), 70.4(a), 70.4(b), and 70.5(c).

25. Part 70 is amended by removing the phrase "and V1–30" and adding in its place the phrase ", V1–30, VE, and V" in the following sections: §§ 70.1 and 70.3(a).

26. Part 70 is amended by removing the phrase "or V1–30" and adding in its place the phrase ", V1–30, VE, or V" in the following sections: §§ 70.4(a), 70.4(b), and 70.5(c).

27. Part 72 is added to 44 CFR Chapter 1, Subchapter B to read as follows:

PART 72—PROCEDURE AND FEES FOR OBTAINING CONDITIONAL APPROVAL OF MAP CHANGES

Sec.

Authority: 31 U.S.C. 9701; 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 72.1 Purpose of part.

The purpose of this part is to provide administrative and cost recovery procedures for engineering review and processing associated with the issuance of Conditional Letters of Map Amendment (conditional LOMAs) and Conditional Letters of Map Revision (conditional LOMRs). Final LOMAs and LOMRs granted to correct map deficiencies are not subject to this reimbursement procedure.

§ 72.2 Definitions.

(a) Except as otherwise provided in this part, the definitions set forth in Part

59 of this subchapter are applicable to this part.

(b) For the purpose of this part, a Conditional Letter of Map Amendment (conditional LOMA) is FEMA's comment on a proposed project to be located in and affecting only that portion of the area of special flood hazard outside the regulatory floodway and having no impact on the existing regulatory floodway or effective base flood elevations.

(c) For the purpose of this part, a Conditional Letter of Map Revision (conditional LOMR) will be FEMA's comment on a proposed project that would affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway or effective base flood elevations.

§ 72.3 Initial fee schedule.

(a) For conditional Letters of Map Amendment, the initial fee shall be paid by the requestor in the following amounts:

(1) Single-lot	$125
(2) Multi-lot/subdivision	$175

(b) For conditional Letters of Map Revision, the initial fee shall be paid by the requestor in the following amounts:

(1) New bridge or culvert (no channelization)	$350
(2) Channel modifications only	$400
(3) Channel modification and new bridge or culvert	$525
(4) Levees, berms, or other structural measures	$675

(c) For projects involving combinations of the above actions which are not separately identified, the initial fee shall be that charged for the most expensive of the actions comprising the combination.

§ 72.4 Submittal/payment procedures and FEMA response.

(a) Initial fees shall be submitted with the request for FEMA review and processing of conditional LOMAs and conditional LOMRs.

(b) Initial fees must be received by FEMA before the review can be initiated for any conditional LOMA or conditional LOMR request.

(c) Following completion of FEMA review for any conditional LOMA or conditional LOMR, the requestor will be billed at the prevailing private sector labor rate (currently $25.00 per hour) for any actual costs exceeding the initial fee incurred during the review.

(1) Requestors of conditional LOMAs will be notified of the anticipated total cost if the total cost of processing their request will exceed $500.

(2) Requestors of conditional LOMRs will be notified of the anticipated total cost if the total cost of processing their request will exceed $1,500.

(3) In the event that processing costs exceed the limits defined in (c)(1) and (2) of this section, processing of the request will be suspended pending FEMA receipt of written approval from the requestor to proceed.

(d) The entity that applies to FEMA through the local community for review will be billed for the cost of the review. The local community incurs no financial obligation under the reimbursement procedure set forth in this part as a result of transmitting the submittal to FEMA.

(e) Payment of both the initial fee and final cost shall be by check or money order payable to the United States Treasury and must be received by FEMA before the conditional LOMA or conditional LOMR will be issued.

(f) For conditional LOMA requests, FEMA shall:

(1) Notify the requestor within 30 days as to the adequacy of the submittal, and

(2) Within 30 days of receipt of adequate information, provide comment to the requestor on the proposed project.

(g) For conditional LOMR requests, FEMA shall:

(1) Notify the requestor within 60 days as to the adequacy of the submittal, and

(2) Within 90 days of receipt of adequate information, provide comment to the requestor on the proposed project.

§ 72.5 Exemptions.

Federal, state, and local governments and their agencies shall be exempt from fees for projects they sponsor if the requestor certifies that the particular project is for public benefit and primarily intended for flood loss reduction to existing development in identified flood hazard areas, as opposed to planned flood plain development.

§ 72.6 Unfavorable response.

A conditional LOMA or conditional LOMR may be denied or may contain specific comments, concerns, or conditions regarding a proposed project or design and its impacts on flood hazards in a community. A requestor is not entitled to any refund if the letter contains such comments, concerns, or conditions, or if the letter is denied. A requestor is not entitled to any refund if the requestor is unable to obtain required authorizations, permits, financing, etc., for which the letter was sought.

§ 72.7 Resubmittals.

Any resubmittal of a request more than 90 days after FEMA notification that a request has been denied or after a review has been terminated due to insufficient information or other reasons will be treated as an original submission and subject to all submittal/payment procedures as described in § 72.4, including the initial fee. The procedure of § 72.4 including the initial fee, will also apply if the project has been significantly altered in design or scope other than that necessary to respond to previously issued comments, concerns, or conditions by FEMA.

PART 75—EXEMPTION OF STATE-OWNED PROPERTIES UNDER SELF-INSURANCE PLAN

28. The authority citation for Part 75 is revised as set forth below and the authority citations following all the sections in Part 75 are removed.

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978; E.O. 12127.

§§ 75.1, 75.10, 75.11, and 75.13 [Amended]

29. Part 75 is amended by removing the phrase "M, V, VO" and inserting in its place the phrase "AH, A1–30, AE, A99, M, V, VO, V1–30, VE" in the following sections: §§ 75.1, 75.10, 75.11(a)(4)(twice), 75.11(a)(5), 75.11(a)(7), and 75.13(c).

Dated: August 29, 1985.

Jeffrey S. Bragg,

Federal Insurance Administrator.

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